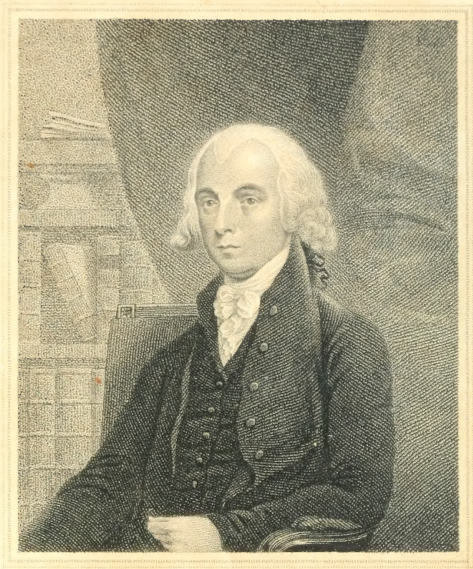








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JAMES MADISON.

STATE PAPERS

AND

PUBLIC DOCUMENTS

OF

THE UNITED STATES,

FROM THE

ACCESSION OF GEORGE WASHINGTON TO THE PRESIDENCY, EXHIB-
BITING A COMPLETE VIEW OF OUR FOREIGN
RELATIONS SINCE THAT TIME.

VOLUME VII.

THIRD EDITION,

PUBLISHED UNDER THE PATRONAGE OF CONGRESS.

INCLUDING:

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DISTRICT OF MASSACHUSETTS, TO WIT:

DISTRICT CLERK'S OFFICE.

BE it remembered, that on the twelfth* day of January, A. D. 1819, and in the forty-third year of the Independence of the United States of America, Thomas B. Wait, of the said district, has deposited in this office the title of a book, the right whereof he claims as proprietor, in the words following, to wit:

"State Papers and Publick Documents of the United States, from the accession of George Washington to the Presidency, exhibiting a complete view of our Foreign Relations since that time. Third edition. Published under the patronage of Congress. Including Confidential Documents, first published in the second edition of this work."

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JNO. W. DAVIS,

Clerk of the District of Massachusetts.

* The date of the certificate of copy right in Vols. 1, 11 and 21, instead of the *first* should be the *twelfth* day of January.

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AMERICAN STATE PAPERS.

DOCUMENTS

ACCOMPANYING THE PRESIDENT'S MESSAGE OF NOVEMBER 8, 1808.

[Continued from Vol. VI.]

*Extract of a Letter from Mr. Madison to Gen. Armstrong.
Department of State, July 22, 1808.*

“YOUR despatches by lieutenant Lewis were delivered on the 8th instant.

It is regretted that the interval between his arrival and the date of your letter to M. Champagny, during which I presume some verbal intercommunication must have taken place, had produced no indication of a favourable change in the views of the French government with respect to its decrees; and still more that instead of an early and favourable answer to your letter, it should have been followed by such a decree as is reported to have been issued on the 22d April, at Bayonne. The decree has not yet reached the United States, and therefore its precise import cannot be ascertained. But if it should be, as it is represented, a sweeping stroke at all American vessels on the high seas, it will not only extend our demands of reparation, but is rendered the more ominous with respect to the temper and views of the emperor towards the United States by the date of the measure.

The arrival of Mr. Baker with my letter of May 2d, of which a copy is herewith sent, will have enabled you to resume the subject of the decrees with the fairest opportunity that could be given to the French government for a change of the unjust and unwise course which has been pursued, and I assure myself that you will not have failed

to turn the communications with which you are furnished to the best account. If France does not wish to throw the United States into the war against her, for which it is impossible to find a rational or plausible inducement, she ought not to hesitate a moment, in revoking at least so much of her decrees as violate the rights of the sea, and furnish to her adversary the pretext for his retaliating measures. It would seem as if the imperial cabinet had never paid sufficient attention to the smallness of the sacrifice which a repeal of that portion of its system would involve, if an act of justice is to be called a sacrifice.

The information by the return of the *Osage* from England is not more satisfactory than that from France.— Nothing was said on the subject of the *Chesapeake*, nor any thing done or promised as to the orders in council. It is probable that further accounts from the United States were waited for, and that the arrival of the *St. Michael* will have led to a manifestation of the real views of that government on those and other subjects. In the mean time it cannot be doubted that hopes were cherished there of some events in this country favourable to the policy of the orders, and particularly that the offensive language and proceedings of France, would bring on a hostile resistance from the United States; in which case the British government would be able to mould every thing to its satisfaction. There is much reason to believe that if the British government should not concur in a mutual abolition of the orders and of the embargo, it will result from an unwillingness to set an example which might be followed and might consequently put an end to the irritating career of her enemy, on which the calculation is built. Might not use be made of this view of the matter in those frank and friendly conversations which sometimes best admit topics of a delicate nature, and in which pride and prejudice can be best managed, without descending from the necessary level? In every view it is evidently proper, as far as respect to the national honour will allow, to avoid a style of procedure which might co-operate with the policy of the British government, by stimulating the passions of the French.”

DUPLICATE.

General Armstrong to Mr. Madison. Paris, Nov. 12, 1807.

SIR,—It was not till yesterday, that I received from Mr. Skipwith a copy of the decree of the council of prizes in the case of the *Horizon*. This is the first unfriendly decision of that body under the arret of the 21st of November, 1806. In this case, and on the petition of the defendant, the court has recommended the restitution of the whole cargo. I did not however think proper to join in asking as a favour, what I believed myself entitled to as a right. I subjoin a copy of my note to the minister of foreign affairs, and am, sir, &c.

JOHN ARMSTRONG.

The Same to M. Champagny. Paris, Nov. 12, 1807.*

SIR,—The document to which these observations are prefixed will inform your excellency, that an American ship, trading under the protection of the laws of nations, and of particular treaties, and suffering shipwreck on the coast of France, has recently been seized by his majesty's officers, and adjudged by his council of prizes as follows, viz.

“Our council puts at liberty the American vessel the *Horizon*, shipwrecked the 30th of May last, near Morlaix, and consequently orders that the amount arising from the sale legally made of the wreck of the said vessel, together with the merchandise of the cargo, which, according to an estimate made in presence of the overseers of the administrations of the marine and custom-house, shall have been acknowledged not to proceed from English manufactures, nor from English territory, shall be restored to captain Mac Clure, without deducting any other expenses than those relative to the sale: and with regard to the other merchandise of the cargo, which, from the result of the said estimate, shall be acknowledged to come from English manufactures, or English territory, by virtue of the 5th article of the decree of the 21st of November, 1806,

Note of General Armstrong.—“In the former copy nearly a page of this letter was omitted by the copier.”

it shall be confiscated for the use of the state: the whole to be sold by the forms prescribed in the regulations, and the application of the product to be made in conformity to the arrangements of the said decree; deduction being made for the expense of saving the goods, and that of the support of the crew, until the day that the captain shall receive the notification of the present decision."

The reasons upon which this decision is founded are at once so new, and so alarming to the present friendly relations of the two powers, that I cannot but discuss them with a freedom, in some degree proportioned to my sense of their novelty and importance.

"Considering," says the council,

"1st. That the neutrality of the ship and cargo were sufficiently established, the whole ought to be restored (agreeably to the provisions of the convention of the 30th of September, 1800) provided no merchandise of English origin had been found in her, and of course, that she had not been brought within the limits of the imperial decree of the 21st of November, 1806."

Here is an open and unqualified admission, that the ship was found within the rules prescribed by the convention of 1800; that, according to these rules, her cargo and herself ought to have been restored; and that such would have been the fact, but for the operation of the decree of the 21st of November, 1806.

In the letter your excellency did me the honour to write to me on the 7th of October last, you thought it "easy to reconcile the obligations of this decree with the preservation of those arising from treaties." It was not for me to examine the means by which this reconciliation was to be effected: they no doubt fully existed, and yet exist, in his majesty's good pleasure; and, taking for granted this fact, I saw in the opinion nothing but proofs of friendly dispositions and pledges, that these were not to be either wantonly destroyed or diminished. How inauspicious, however, to its authority, and the consolations derived from it, is this recent act of the council of prizes? an act which explicitly acknowledges the opposite characters and conflicting injunctions of these two instruments, and which of course draws after it considerations the most serious to the government of the United States.

The second reason of the council is—

“That the decree declaring (British) merchandise good prize, had principally in view captures made on the high seas; but that the question, whether shipwrecked goods ought to be restored, or confiscated, having always been judged under the 14th article of the regulation of the 26th of July, 1778, and according to their character (which might have rendered lawful, or have even commended their seizure at sea) there is no room to introduce in this case any new distinction, which, however philanthropick it may appear, has not as yet been adopted as a rule by any maritime nation.”

The doctrine resisted in this passage, and which inculcates the duty of extending protection to the unfortunate, is not new to his majesty's council of prizes. They have themselves consecrated it by their decision of the 5th of March, 1800. By that decision they restored an enemy's ship (the *Diana*) on the *single reason*, that she had been “*compelled to enter a French port by stress of weather.*” “I should equally fail,” says the attorney general, “in respect to myself, and to the council, before whom I have the honour to represent the government, *were I not to maintain a principle, consecrated by our laws, and by those of all nations.* In all circumstances, let the loyalty of the French government serve as the basis of your decisions. Prove yourselves at once generous and just; your enemies will know and respect your magnanimity.” Such was the principle adopted by the council in the year 1800, and in the case of an enemy's ship; yet, we are now told, that this very principle, so honourable to the court, to the nation, and to human nature, is utterly unknown to all maritime people; and on what occasion do we hear this? When an enemy's ship is again thrown on the French coast? No: it has been reserved for the wreck of a neutral and friendly vessel! for a ship of the United States! It is not denied, that had this ship escaped the rocks and made the port of Morlaix, the only inhospitality to which she would have been exposed (under the most rigorous interpretation of the law in question) would have been that of being ordered again to sea. Has then the misfortune of shipwreck so far altered her condition, as to expose her to the injury of confiscation also? and is this among the

principles which the defender of maritime rights means to consecrate by his power and his wisdom? It is impossible.

The third reason of the council is, "that the application of the 5th article aforesaid, in as far as it concerns the American and other nations, is the result both of the general expressions of that very article, and of the communication recently made by his excellency the grand judge, concerning the primitive intention of the sovereign."

This reason will be found to be substantially answered in my reply to reason No. 5 of the council. It will be seen that the opinion given here, that "the application of article 5 of the imperial decree to American commerce, is the result of the general expressions of that very article," was not the opinion of the council on the 5th of March last, when they judged the case of the *Hibernia*; they then declared, in totidem verbis, that the decree "said nothing of its own influence on the convention of 1800," between the United States and France.

The fourth reason of the council is, "that the expedition in question having certainly been made with full knowledge of the said decree, no objection can be drawn, with any propriety, from the general rules forbidding a retrospective action, nor even, in this particular case, from the posterior date of the act in which the sovereign decides the question, since that act sprung from his supreme wisdom, not as an interpretation of a doubtful point, but as a declaration of an antierior and positive disposition."

A distinction is here attempted to be taken between the interpretation of a doubtful point, and the declaration of an antierior and positive rule. This distinction cannot be maintained; for if the rule had been positive, there would have been no occasion for the declaration. Neither the minister of marine, nor the council of prizes, could have had any doubts on the subject; the execution of the decree would have been prompt and peremptory; nor would a *second act* on the part of his majesty, after the lapse of twelve months, have been necessary to give operation to the *first*. Need I appeal to your excellency's memory for the facts on which these remarks turn? You know that doubts did exist. You know that there was, under them, *much hesitation* in pronouncing.... You know, that as late as the 9th of August, I sought an explanation of the decree in question, and that even then,

your excellency (who was surely a competent and legitimate organ of his majesty) did not think yourself prepared to give it. The conclusion is inevitable: his majesty's answer, transmitted to the court of prizes on the 18th of September last, through the medium of the grand judge, was in the nature of an *interpretation*, and being so, could not, without possessing a retro-active quality, apply to events many months antierior in date to itself.

The fifth reason of the council, and the last which enters into my present view of the subject, is, "that though one of the principal agents of his majesty had given a contrary opinion, *of which the council had at no period partaken*: this opinion being that of *an individual*, could not, (whatever consideration its author may merit) balance the formal declaration given in the name of his majesty himself, and that, if the communication of this opinion had, as is alleged, given room to, and served as a basis for many American shipments, and particularly of the one in question, this circumstance, which may call for the indulgence of his majesty, in a case in which the confiscation is entirely to the advantage of the state, does not prevent a council, rigid in its duty, to pronounce in conformity to the decree of the 21st of November, and of the declaration which followed it."

It would appear from this paragraph, that, not finding it easy to untie the knot, the council had determined to cut it. Pressed by the fact, that an interpretation of the decree had been given by a minister of his majesty, specially charged with its execution, they would now escape from this fact, and from the conclusions to which it evidently leads, by alleging,

1st. That at no time had the council partaken of the opinion given by the minister: and

2d. That this opinion, being that of *an individual*, could not possess either the force or authority of one truly ministerial.

It appears to me, as I think it will appear to your excellency, that the council have, in these statements, been less correct than is usual to them on similar occasions. If, as they now assert, they have never partaken of the minister's opinion; if they have never even hesitated on the question, whether the decree of November did, or did not, derogate from the treaty of 1800; why, I ask, suspend the Ameri-

can cases generally? or why decide as they did in the case of the *Hibernia*? If I mistake not, we find in this case the recognition of the very principle laid down by the minister of marine. That officer says, "In my opinion, the November decree does not work any change in the rules at present observed, with respect to neutral commerce, and consequently none in the convention of the 8th Vendemiaire, year 9." And what says the council? "*Admitting* that this part of the cargo (the rum and ginger) was of *British origin*, the dispositions of the November decree (*which contain nothing with regard to their own influence over the convention of the 8th Vendemiaire, year 9*) evidently cannot be applied to a ship leaving America on the 6th of the same month of November; and, of course, cannot have authorized her capture, in the moment she was entering the neutral port of her destination." We have here, three distinct grounds of exemption from the effects of the November decree.

1st. The *entire silence* of that decree, with regard to its own influence over the convention of 1800.

2d. The *early period* at which the ship left the United States, and

3d. The neutral character of the port to which she was destined.

If such, sir, were the principles admitted by the council on the 25th of March last, with what correctness can it be now said, "that at no period have they partaken of the opinion of the minister?"

The second fact asserted by the council is, that the interpretation of the decree in question, given on the 24th of December, 1806, was *private*, not *publick*; or, in other words, that it was the interpretation of the *man*, not that of the *minister*, and as such, cannot outweigh the more recent declaration coming directly from his majesty himself.

On the comparative weight of these declarations, I shall say nothing, nor shall I do more to repel the first part of the insinuation (*that the minister's declaration was that only of the individual*) than to submit to your excellency my letter of the 20th of December, 1806, claiming from that minister an *official* interpretation of the decree in question, and his answer of the 24th of the same month, giving to me the interpretation demanded.

To your excellency, who, as late as the 21st of August last, considered the minister of marine as the natural organ of his majesty's will, in whatever regarded the decree aforesaid, and who actually applied to him for information relating to it, this allegation of the council of prizes, and the reasoning founded upon it, cannot but appear very extraordinary, and will justify me in requesting that his majesty may be moved to set aside the decision in question, on the ground of error in the opinion of the council.

If, in support of this conclusion, I have drawn no arguments from the treaty of 1800, nor from the laws of nations, your excellency will not be at a loss to assign to this omission its true cause. It would surely have been a useless formality to appeal to authorities, not only practically, but even professedly extinct. In the letter of the minister of justice, of the 18th of September, we are told by his majesty himself, that "since *he* had not judged proper to make any exception in the letter of his decree, there was no room to make any in its execution."—And in the report of your excellency's predecessor, of the 20th of November, 1806, we have these memorable words :

"England has declared those places blockaded, before which she had not a single ship of war.

"She has done more, for she has declared in a state of blockade, places, which all her assembled forces were incapable of blockading—immense coasts, and a vast empire.

"Afterwards, drawing from a chimerical right, and from an assumed fact, the consequence that she might justly make her prey of every thing going to the places laid under interdiction, by a simple declaration of the British admiralty, and of every thing arising therefrom, and carrying this doctrine into effect, she has alarmed neutral navigators, and driven them to a distance from ports whither their interests attracted them, and which the law of nations authorized them to frequent.

"Thus it is, that she has turned to her own profit, and to the detriment of Europe, but more particularly of France, the audacity with which she mocks at *all rights*, and *insults even reason itself*.

“Against a power which forgets to such a pitch all ideas of justice, and all humane sentiments, *what can be done, but to forget them for an instant one’s self?*”

Words cannot go farther to show the extinguished authority, in the one case, of the treaty subsisting between the United States and his imperial majesty, and, in the other, of the law of nations: to appeal to them, therefore, would be literally appealing to the dead.

Accept, sir, &c. &c. &c.

JOHN ARMSTRONG.

To his Excellency the Minister of
Foreign Relations.

General Armstrong to Mr. Madison. Paris, Dec. 1, 1807.

SIR,—I have this moment received a letter from his majesty’s minister of foreign relations, of which I subjoin a copy, and am, sir, &c.

JOHN ARMSTRONG.

TRANSLATION.

M. Champagny to General Armstrong. Milan, Nov. 24, 1807.

SIR,—The execution of the measures taken against the English commerce has frequently caused reclamations on your part. The intention of his majesty, without doubt, is, that every particular abuse may be repressed: but the federal government cannot make any complaint against the measures themselves; and while the United States allow that their vessels may be visited by England, that she may drag them into her ports, and turn them from their destination; while they do not oblige England to respect their flag, and the merchandise which it covers; while they permit that power to apply to them the absurd rules of blockade which it has set up with the view of injuring France; they bind themselves by that tolerance towards England to allow also the application of the measures of reprisals which France is obliged to employ against her. His majesty regrets, without doubt, to have been forced to recur to such measures: he knows all that

the commercial classes may have to suffer in consequence of them, particularly those, who, having habitual relations with England, using a common language, and often mixing their interests, might more frequently occasion an apprehension of some commercial connivance with the English, inasmuch as they would have greater facilities in covering it. This circumstance made it necessary to use towards them precautions more exact, and an unceasing watchfulness, in order not to be exposed to abuses, which might result from a less constant vigilance. But it is not to France, it is to England, that these inconveniences to individuals ought to be imputed. She it is who has given the example of measures unjust, illegal, and infringing on the sovereignty of nations. To oblige her to renounce them, it has become necessary to combat her with her own arms: in violating the rights of all nations, she has united them all by a common interest, and it is for them to have recourse to force against her; to forbid her the search (*la visite*) of their vessels; the taking away of their crews; and to declare themselves against measures which wound their dignity and their independence. The unjust pretensions of England will be kept up as long as those, whose rights she violates, are silent; and what government has had more to complain of against her than the United States? All the difficulties which have given rise to your reclamations, sir, would be removed with ease, if the government of the United States, after complaining in vain of the injustice and violations of England, took with the whole continent the part of guarantying itself therefrom. England has introduced into the maritime war an entire disregard for the rights of nations: it is only in forcing her to a peace that it is possible to recover them. On this point the interest of all nations is the same. All have their honour and their independence to defend.

Accept, sir, &c. &c. &c.

CHAMPAGNY.

*Extract from a Letter of Gen. Armstrong to Mr. Madison.
Paris, Feb. 17, 1803.*

“ENCLOSED is a copy of the answer from the minister of marine to my letter of the 13th instant, in relation to

the sale of a part of the cargo of the ship *James Adams*. It would now appear, that the promises of forbearance made by another department, are applicable only to vessels sequestered in the ports, and not to such as have been captured at sea."

[5th division of prizes.]

TRANSLATION.

Extract from a Letter of the Minister of Marine to General Armstrong. Paris, Feb. 15, 1808.

"I OBSERVE to you moreover that the question now is not as to a vessel sequestered in port; but as to a prize made at sea, and seized for a contravention of the decree of the 17th Dec. last: that the provisional sale ordered on account of the "average" is for the interest as well of the captured, as of the captors, and it is directed according to the case provided for by the regulation of the 2d Prairial, 11th year."

General Armstrong to Mr. Madison. Paris, April 5, 1808.

"I RECEIVED the despatches you did me the honour to address to me by Mr. Lewis, on the 26th ultimo.

"Though I had complained often and earnestly of both the principles and operation of the emperor's decrees of November, 1806, and December, 1807—(having written at least twenty notes on the different cases which have arisen under them) yet, as the President's orders were express, that on receipt of your letter I should superadd to whatever representations might have been previously made, a formal remonstrance against those decrees, I did not lose a moment in writing and presenting the enclosed note; the terms of which will, I hope, appear to be such as were proper or necessary to the case, and calculated, either to obtain a recall of the illegal measures, or to leave in full force the rights accruing to the United States from a failure on the part of France to recall them. To this note I have not yet received an answer, nor have I reason to expect one soon, as the emperor has left Paris (it is said for Spain) and had, at no time before he set out, indicated any

alteration in the views which originally produced the decrees in question.

“ Mr. Pinkney found means (in the return to the continent of M. d’Alopeus) to communicate the President’s views on the subject of the general embargo, and particularly the desire he had, that it should not be considered as a measure of hostility against any foreign nation. Some explanations of this kind were perhaps necessary in England, where, from the misrepresentations of our own people, the character of the policy was likely to be misunderstood; but as neither the same, nor any other reason existed for making them here, none have been offered.”

*General Armstrong to M. Champagny. Paris, April 2.
1808.*

SIR,—Having submitted to the government of the United States, copies of the imperial decrees of the 21st of November, 1806, and 17th of December, 1807, and of the expositions which your excellency has been pleased, at different times, to give of them, I have recently received the instructions of the President to remonstrate against both the provisions and operation of the said decrees, on the ground of their infracting, as well the positive stipulations of a particular treaty, as the incontestable principles of publick law.

In discharging this duty, your excellency will permit me to recall to your remembrance the twelfth and fourteenth articles of the treaty made between the United States and France, on the 30th of September, 1800. These articles provide,

1st. That “ it shall be lawful for the citizens of either country to sail with their ships and merchandise (contraband goods always excepted) from any port whatever, to any port of the enemy of the other, and to sail and trade with their ships and merchandise, with perfect security and liberty, from the countries, ports, and places of those who are enemies of both, or of either party, without any opposition or disturbance whatsoever; and to pass not only directly from the places and ports of the enemy aforesaid to neutral ports and places, but also from one place belonging to an enemy to another place belonging to an enemy, whe

ther they be or be not under the jurisdiction of the same power, unless such ports or places shall be actually blockaded, besieged, or invested."

2d. That "vessels sailing for a port or place belonging to an enemy, without knowing that the same is either besieged, blockaded, or invested, may be turned away from such port or place; but they shall not be detained, nor any part of their cargo (not contraband) confiscated, unless, after notice of such blockade or investment, they shall again attempt to enter; but they shall be permitted to go to any other port or place they shall think proper."

3d. That "free ships shall give a freedom to goods, and that every thing shall be deemed to be free and exempt, which shall be found on board the ships belonging to the citizens of either of the contracting parties, although the whole lading, or any part thereof, should appertain to the enemies of either: contraband goods being always excepted."

These stipulations are not more clear in themselves, nor of more indisputable application and authority in the present case, than the injunctions of publick law, by which they are enforced, viz. that local regulations (excepting by virtue of convention) cannot apply to foreign nations on the high seas, without violating the rights of the one, and the freedom of the other; that blockades can only exist, when places are so invested that no serious attempts can be made to approach them without exposing the parties making them to imminent danger; that merchant vessels may be visited without any degradation to the flag of the nation to which they belong, &c. &c. &c. But why multiply proofs of a position which is not denied? Does not the official report of your enlightened predecessor, of the 21st of November, 1806, admit the illegitimacy of the original decree? Does it not expressly say, that the doctrines of blockade introduced by England are monstrous and indefensible? and that the practice, like the doctrine, is a mockery of right, and an insult upon reason? After strictures so severe, because so just, what can be said for the policy of France, which differs in nothing from that of England? Has your excellency attempted to defend either the theory or the practice of this policy, on the ground of its conformity to the principles of publick law? Or have you done more at any time, or on any occasion, than to seek a

justification for it on the bare suggestion, that the United States have acquiesced in the measures of England? And how has even this suggestion been maintained? By an exposition of the wrongs inflicted on American commerce! and which have been notoriously practised by all the belligerents in turn. Have not the ships of the United States been encountered by all? Have they not been turned from their original destination? Have they not been dragged into foreign ports for adjudication? Have they not in several instances been burnt on the high seas? Is not the argument, founded on this state of things, equally good for either, or for all the belligerents? And can France derive from it rights which do not equally accrue to her enemies? There is, however, another and a better answer to this suggestion, which your excellency has already seen in the letter I had the honour of writing to you on the 16th of February last, viz. that the suggestion is neither well or plausibly founded; and that the United States neither have submitted, nor will submit, to the usurpations of Great Britain, nor to those of any other nation. Accept, sir, &c.

JOHN ARMSTRONG.

His Excellency the Minister
of Foreign Relations.

Extract of a Letter from General Armstrong to Mr. Madison. Paris, April 12, 1808.

“I HAVE detained Mr. Lewis till to day, on the supposition that my letter of the 2d instant to M. de Champagny would be answered.... This was, however, a mere accommodation to forms, since the absence of the emperor and that of the minister of foreign relations, rendered this supposition highly improbable. There being then no publick reason for Mr. Lewis's longer stay in Paris, and the permission to the Osage to prosecute her voyage to England not including one to return to France, I have thought it best that he should embark with such despatches as were ready, proceed to Falmouth, in England, and thence, after receiving Mr. Pinkney's orders, return with all possible expedition to the United States. He has accordingly been instructed to this effect.”

Extracts of a Letter from the Same to the Same. Paris, June 25. 1808.

“ THE St. Michael arrived at L'Orient on the first instant, and, like the Osage, was immediately put under sequestration. It was not till the 8th, that Mr. Baker arrived here.”

“ The remonstrance ordered, with respect to the terms of M. Champagny's letter of the 15th of January, shall be executed the moment the prince of Benevent returns from Valençay ; and I hope in a way, which, while it makes the French government sensible of the offensiveness of those terms, will not obstruct the road to friendly and respectful explanations on its part.

“ To give this a chance of finding Mr. Livingston at Bordeaux, I must close it here.”

The Same to the Same. Paris, July 18, 1808.

SIR,—I avail myself of the detention of the Arcturus, to transmit copies of two letters, which I have written to M. de Champagny ; the one, in execution of the President's orders with regard to the offensive terms, employed by that minister, in his note of the 15th of January last ; the other demanding from him, on the part of his government, an avowal or disavowal of the conduct of rear admiral Baudin, in burning, or otherwise destroying, on the high seas, four American ships and their cargoes.

I have the honour to be, sir, with very high consideration, &c.

JOHN ARMSTRONG.

Secretary of State.

Extract of a Letter from General Armstrong to M. Champagny. Paris, July 4, 1808.

“ IT has been made the duty of the undersigned to bring to the view of the French government an official note, addressed to him on the 15th of January last, by his majesty's minister of exterior relations, and which, in the opinion of the President, is calculated to derogate from the

rights of the United States as an independent nation. The note is in the following words, viz. [See M. Champagny's letter of the 15th January, 1808.]

On this note the undersigned would remark, 1st. That the United States have a right to elect their own policy with regard to England, as they have with regard to France; and that it is only while they continue to exercise this right, without suffering any degree of restraint from either power, that they can maintain the independent relation in which they stand to both: whence it follows, that to have pronounced, in the peremptory tone of the preceding note, the effects which the measures of the British government ought to have produced on their councils and conduct, was a language less adapted to accomplish its own object, than to offend against the respect due from one independent nation to another: and

2dly. That the alternative to be found in the last paragraph, and which leaves the United States to choose between an acquiescence in the views of France against Great Britain, and a confiscation of all American property sequestered by order of his imperial majesty, is equally offensive to both governments; to France, as it would impute to her a proposition founded in wrong to individuals; and to the United States, as it would imply, on their part, a subjection to pecuniary interests totally inconsistent with their principles, and highly dishonourable to their character.

His excellency will be persuaded that the President, in directing the undersigned to make this representation, had no object in view beyond that of seeking an explanation, which cannot but tend to promote the harmony of the two powers."

General Armstrong to M. Champagny. Paris, July 10, 1808.

SIR,—Your excellency will see by the enclosed extracts from two letters which his majesty's minister of marine has done me the honour to address to me on the 18th of April and 13th of June last, that the property taken from the four American ships, destroyed by rear admiral Baudin, has been placed under the jurisdiction of the imperial

council of prizes, to be judged by it, as a case of ordinary capture.

To your excellency, it will be unnecessary to remark, that whatever may be the decision of this council in relation to the merchandise which has been *saved*, the case presents a question of much higher import, and entirely beyond the jurisdiction of a maritime court, viz. the kind and degree of reparation which shall be due for the ships and merchandise which have been *destroyed*? and by way of opening this subject, your excellency will permit me to ask, whether his majesty's government does or does not justify the conduct of rear admiral Baudin, in burning, or otherwise destroying, on the high seas, the ships and merchandise of a neutral and friendly power?

I pray your excellency, &c.

JOHN ARMSTRONG.

M. Champagny.

Extract of a Letter from General Armstrong to the Secretary of State. Paris, July 26, 1808.

"It would have given me the highest pleasure to have drawn from this government such explanations, on the general subject of our differences with them, as would have met the friendly and equitable views of the United States; but I owe it, as well to you as to myself, to declare, that every attempt for that purpose, hitherto made, has failed, and under circumstances which by no means indicate any change in their respect for the better."

Extracts of a Letter from the Same to the Same. Paris, Aug. 7, 1808.

"I WROTE a few lines to you yesterday. Two weeks have gone by without any new condemnation. My remonstrances continue to be unanswered.

"P. S. I enclose a copy of my note of yesterday to M. de Champagny."

Extract of a Letter from General Armstrong to M. Champagny. Paris, Aug. 6, 1808.

“MR. ARMSTRONG presents his compliments to M. de Champagny, and begs leave to inform him, that having for some months past made trial of the artificial waters of Tivoli, without any useful effect, his physician has prescribed for him those of Bourbon d’Archambault. Should M. de Champagny have any communication to make to Mr. Armstrong, he will be pleased to address them as usual to the hôtel de Légation Américaine, Rue Vanguard, No. 100, whence they will be regularly and promptly transmitted to Bourbon.

On leaving Paris, Mr. Armstrong thinks proper to state his regrets, that the political relations of the two powers should continue to wear an aspect less auspicious to their future good understanding, than is wished for by those who are the friends of both.

That his majesty has a right to make such municipal regulations as he may deem proper with regard to foreign commerce, neither is, nor has been denied: for example, he may forbid the entry into the ports of France of American ships which have touched in England, or been destined to England, and he may either sequester or confiscate such vessels of the United States as shall infract these laws, after due promulgation and notice thereof; but beyond this the United States hope and believe that his majesty will not go.

M. de Champagny will not fail to seize the distinction which these remarks present, between the authority of municipal regulations, and that of publick law, and will decide whether it does or does not offer a ground on which the good understanding, so long and so usefully maintained between the United States and France, may be preserved, and a degree of intercourse between them revived, which shall have the effect of reanimating their former industry.

Does his majesty fear, that the balance of trade, arising from this renewed industry, would go to the advantage of England? Means are certainly not wanting to prevent this consequence. Would it not be entirely avoided by making

it a condition of the commerce in question, that all ships leaving France shall take (in some article or articles of her produce or manufacture) the full amount of the cargoes they bring hither ?

Ships, sailing under this regulation, would, or would not, go voluntarily to England. If they went voluntarily, it would only be, because that country afforded the best markets for the productions of France ; in which case the habitual results would be entirely changed, and England, ceasing to receive a balance for her manufactures, would begin to pay one to the United States on the productions of France. Could France wish a state of commerce more prosperous than this ?

If, on the other hand, the American ships did not go voluntarily to England, but were captured and sent in for adjudication, it may be fairly presumed, that the United States could no longer hesitate about becoming a party to the war against England.

Thus, in either case, the interests of his majesty would be directly advanced by the measure : in the one, the wants of France and her colonies would be not only regularly supplied, but she would herself become an entrepot for the supply of the continent ; in the other, the wishes of his majesty, as expressed in February last, would be directly promoted.

Mr. Armstrong has the honour of renewing to M. de Champagny the assurances of his very high consideration."

*Extract of a Letter from the Same to the Secretary of State.
Bourbon l'Archambault, August 28, 1803.*

"SINCE my arrival at this place I have been honoured by the receipt of your despatch of the 21st ult. and would immediately return to Paris, to renew my discussions with M. de Champagny, either personally, as you suggest, or by writing, had I not the most solemn conviction, that any new experiment, made at the present moment, in either form, and of official character, would certainly be useless and probably injurious."

Extracts of a Letter from Mr. Madison, Secretary of State, to Mr. Pinkney, Minister of the United States at London. Department of State, Dec. 23, 1807.

“MR. ERSKINE having been so good as to let me know that the mail of this evening will carry his despatches for a British packet, which will sail from New York immediately on their arrival there, and other conveyances now failing, I avail myself of the opportunity, to enclose you a copy of a message from the President to Congress, and their act in pursuance of it, laying an immediate embargo on our vessels and exports. The policy and the causes of the measure, are explained in the message itself. But it may be proper to authorize you to assure the British government, as has been just expressed to its minister here, that the act is a measure of precaution only, called for by the occasion; that it is to be considered as neither hostile in its character, nor as justifying, or inviting or leading to hostility with any nation whatever, and particularly as opposing no obstacle whatever to amicable negotiations and satisfactory adjustments with Great Britain, on the subjects of difference between the two countries.

The suddenness of the present opportunity does not allow me time to add more than a newspaper, containing a part of the proceedings of Congress in relation to the embargo.”

“P. S. As you may be able to find conveyances to Paris, whither none will for some time offer hence, I request the favour of you to communicate to general Armstrong the contents of this letter, and through him, or otherwise, to Mr. Erving at Madrid.”

Extract from the Same to the Same. Department of State. Feb. 19, 1808.

“A VESSEL having been engaged to carry from the port of New York publick despatches and mercantile letters to Europe, I avail myself of the opportunity of forwarding you a series of gazettes, which contain the proceedings of

Congress, and such current information as will give you a view of our internal affairs. They will be put, with this letter, into the hands of Mr. Nourse, a passenger in the despatch vessel, who will deliver them at London; and as the vessel, which will have previously touched at L'Orient, will, after waiting ten or twelve days at Falmouth, return to that port, and thence to the United States, you will have an opportunity of sending thither any communications you may wish to make to Paris, as well as of transmitting to your government such as may follow up your correspondence, which, at the present period, will be the more acceptable, the more it be frequent and full.

“My last, which was committed to the British packet, enclosed a copy of the act of embargo, and explained the policy of the measure. Among the considerations which enforced it, was the probability of such decrees as were issued by the British government on the 11th of November; the language of the British gazettes, with other indications, having left little doubt that such were meditated. The appearance of these decrees has had much effect in reconciling all descriptions among us to the embargo, and in fixing in the friends of the measure their attachment to its provident guardianship of our maritime interests.

Mr. Erskine communicated, a few days ago, the several late decrees of his government, with expressions of the regret felt by his Britannick majesty at the necessity imposed on him for such an interference with neutral commerce, and assurances that his majesty would readily follow the example, in case the Berlin decree should be rescinded, or would proceed, *pari passu*, with France, in relaxing the rigour of their measures. Mr. Erskine was asked, whether his government distinguished between the operation of the French decree, municipally on land, and its operation on the high seas? On this point he was unable to answer; as he also was to an inquiry, whether the late British decrees had reference to the late extension of the French decree with respect to the United States? He seemed also, as is perhaps the case with his government, to have taken very little into consideration the violations of neutral commerce, and through them the vast injury to France antecedent to the Berlin decree. It is probable that something further is to pass between us on this subject.”

Extract of a Letter from the Same to the Same. Department of State, March 8, 1808.

“HAVING just learnt that the present mail will arrive at New York in time for the British packet, I avail myself of the opportunity of forwarding your commission and letters of credence, as successor to Mr. Monroe, in the legation at London.

Since my last, which went by Mr. Nourse in a despatch vessel, bound first to L'Orient, and then to Falmouth, I have received your communication of the 23d November and of December. These, with a representation from general Armstrong to the French government, on the subject of the decree of Berlin, as expounded and enforced in the case of the ship *Horizon*, were thought by the President to throw so much light on the course likely to be pursued by Great Britain and France, in relation to the United States, that he had the documents confidentially laid before Congress.

Mr. Erskine has made a written communication on the subject of the British orders. I shall answer him as soon as the very urgent business on hand will permit.”

Extract of a Letter from the Same to the Same. Department of State, March 22, 1808.

“MY last bears date the 8th instant, and went by the British packet. It acknowledged your letter of November 23, and of December. I have since received those referred to in the letter, and also that of January 26, which came to hand last evening.

“I cannot enclose my answer to Mr. Erskine's communication of the British orders; the unceasing pressure of other matters, on a state of health still feeble, having thus far delayed it. You will anticipate the complexion which will necessarily be given to it by the character of measures, not only violating our rights, and stabbing our interests, but superadding, under the name of indulgences, a blow at our national independence. and a mockery of our understandings.”

Mr. Madison to Mr. Pinkney. Department of State, April 4, 1808.

SIR.—My last was of March 22, and went under the care of Mr. Rose. I now forward printed copies of the correspondence with him on the subject of his mission, and of the antecedent documents relating to the case of the Chesapeake. As soon as the voluminous residue of the communications made to Congress issues from the press, it shall also be forwarded. You will find that they include certain documents relating to France, which were thought proper for the knowledge of Congress at the present crisis.

To these communications I add copies of Mr. Erskine's letter to me on the subject of the British decrees of November last, and of my answer. And that you may have a view of the ground which has been taken with respect to the French decree of November, 1806, and to the judicial exposition in the case of the *Horizon*, giving to it an illegal operation against the United States, I enclose copies of two letters to general Armstrong on those subjects.

The President made to Congress, a few days ago, other communications relating to the present crisis with Great Britain and France, among which were Mr. Erskine's letter, now enclosed, and a letter from M. Champagny to general Armstrong, explaining the course meditated by the French government with respect to the commerce of the United States. These, being excepted from the confidential character attached to the others, have been published, and will be found among the printed enclosures. Your letter of February 26 was included in the communications to Congress, but not in the exception.

The conduct of the two great contending nations towards this country, as it will now appear to it and to the world, fully displays their mutual efforts to draw the United States into a war with their adversary. The efforts on both sides are too little disguised to be worthy the discernment of either, and are addressed moreover to motives which prove great ignorance of the character of the United States, and indeed of human nature.

From the posture in which Mr. Rose's final reply to the compromise proposed to him placed the question of adjustment in the case of the Chesapeake, it remains with the British government to resume it, if adjustment be their object. Whether a tender of reparation will be made here, or to you, will also lie on that side. It will certainly be most becoming that government, under all circumstances, to make the reparation here ; and this course might of right be insisted on by this government. The President, nevertheless, in the liberal spirit which always governs him, authorizes you to accept the reparation, provided it be tendered spontaneously, be charged with no condition, unless it be that, on the receipt of the act of reparation here, the proclamation of July 2d shall be revoked : and provided the reparation shall add, to the disavowal of the attack on the Chesapeake, an express engagement that the seamen retained shall be immediately restored, and that the guilty officer experience an exemplary punishment. The reparation will be the more satisfactory, and not exceed a just expectation, if the restoration of the seamen be made to the very ship from which they were wrested, and if provision be made for the wounded survivors, and for the families of those who lost their lives by the attack.

I must repeat, however, that it is considered entirely proper, that the reparation should be offered here, rather than in London, and it is only in the event of a decided repugnance in the British government to make it through a functionary here, that you are to accept it there.

The answer to Mr. Erskine's letter on the British orders, will furnish the grounds to be taken in your communications with his government on that subject. If the cabinet can be brought to view the orders in their true light, a revocation of the whole of them cannot fail to take place, unless they mean to violate every maxim of justice, or are fixed in hostile purposes against the United States. In not regarding the orders, indeed, as acts of hostility, and in trusting for redress to the motives and the means, to which they have appealed, the United States have given the most signal proof of their love of peace, and of their desire to avoid an interruption of it with the British nation.

Still it is to be understood, that whilst the insult offered in the attack on the American frigate remains unexpiated,

you are not to pledge or commit your government, to consider a recall of the orders as a ground on which a removal of the existing restrictions on the commerce of the United States with Great Britain may be justly expected.

The two letters to general Armstrong, of the 22d May, 1807, and February 8th, 1808, are proofs of the sincerity and impartiality with which the President has proceeded in relation to the belligerent parties, and may, perhaps, assist you in repressing unjust suspicions, imbibed by the British cabinet. It would be happy for all parties, the belligerents as well as the United States, if truth could, in this case, be made to prevail; and if the retaliating rivalry of the former against the latter could be converted into an emulation, as politic as it would be magnanimous in both, to take the lead in a fair, lawful, and conciliatory course, towards a nation which has done no wrong to either. Should the experiment be made on either side, it would probably be followed on the other; and it could never happen, that the side first doing justice would suffer on that account.

In the present state of our relations to Great Britain, it would be premature to mark out the course to be pursued with respect to further negotiations on other topics than those above noticed. You are authorized, however, to continue your interpositions in behalf of our impressed or *detained* seamen; and in the event of a repeal of the British orders, and of satisfactory pledges for repairing the aggression on the Chesapeake, to enter into informal arrangements for abolishing impressments altogether, and mutually discontinuing to receive the seamen of each other, into either military or merchant service, conformably to the instructions on this point transmitted by Mr. Purviance.

You will find by a passage in Mr. Rose's reply of March 17, that the British government does not maintain the principle, that the obligation of the United States extends beyond the discharge of deserters from their publick service; and by an order of the navy department here, already carried into execution, of which a copy is enclosed, that it has lately been decided, that no foreign seamen, whether deserters or not, shall serve on board our ships of war. The principles respectively manifested by

these documents, ought to facilitate such an adjustment as is contended for by the United States.

I have the honour to be, &c.

JAMES MADISON.

William Pinkney, Esq. Minister Plenipotentiary
United States—London.

Extract of a Letter from the Same to the Same. Department of State, April 30, 1808.

"My last was of the 4th inst. and went by a British packet from New York. I now forward a copy of it.

Congress ended their session on the night of the 25th instant. The series of newspapers, herewith sent, affords a view of their proceedings subsequent to the communications last made to you. Some other prints are included, which throw light on the workings of publick opinion and the state of publick affairs.

You will find that the critical posture of our foreign relations has produced provisions of different kinds for our greater security; and particularly that no pains have been spared to stop every leak by which the effect of the embargo laws might be diminished. I refer you also to the report made to the Senate by a committee on the documents relating to the affair of the Chesapeake, and on the letters of M. Champagny and Mr. Erskine; and indicating the spirit which may be expected to influence the future policy of this country, if kept under the excitement resulting from the system now pursued against it.

You will observe at the same time, that whilst a determination is sufficiently evinced against a dishonourable acquiescence in the despotick edicts enforced on the high seas, the United States are ready to resume their export trade as soon as the aggressions on it shall cease; and that in a hope that this might happen during the recess of Congress, the President is authorized, in such an event, to suspend, in whole or in part, the several embargo laws.

The conditions on which the authority is to be exercised, appeal equally to the justice and policy of the two great belligerent powers, which are now emulating each other in a violation of both. The President counts on

your endeavours to give to this appeal all the effect possible with the British government. General Armstrong will be doing the same with that of France. The relation in which a revocation of its unjust decrees by either, will place the United States to the other, is obvious ; and ought to be a motive to the measure, proportioned to the desire which has been manifested by each to produce collision between the United States and its adversary, and which must be equally felt by each to avoid one with itself.

Should the French government revoke so much of its decrees as violate our neutral rights, or give explanations and assurances having the like effect, and entitling it therefore to a removal of the embargo as it applies to France, it will be impossible to view a perseverance of Great Britain in her retaliating orders, in any other light than that of war, without even the pretext now assumed by her.

In order to entitle the British government to a discontinuance of the embargo, as it applies to Great Britain, it is evident that all its decrees, as well those of January, 1807, as of November, 1807, ought to be rescinded, as they apply to the United States ; and this is the rather to be looked for from the present administration, as it has so strenuously contended that the decrees of both dates were founded on the same principles, and directed to the same object.

Should the British government take this course, you may authorize an expectation that the President will, within a reasonable time, give effect to the authority vested in him on the subject of the embargo laws.

Should the orders be rescinded in part only, it must be left to his free judgment to decide on the case. In either event, you will lose no time in transmitting the information to this department and to general Armstrong ; and particularly in the event of such a course being taken by the British government, as will render a suspension of the embargo certain or probable, it will be proper for you to make the communication by a courier to general Armstrong, to whom a correspondent instruction will be given, and to provide a special conveyance for it hither, unless British arrangement shall present an opportunity equally certain and expeditious."

Extract of Letter from Mr. Madison to Mr. Pinkney. Department of State, July 18, 1808.

“YOUR communications by lieutenant Lewis were safely delivered on the evening of the 8th inst.

As it had been calculated that the interval between the return of Mr. Rose, and the departure of lieutenant Lewis, would give sufficient time to the British government to decide on the course required by the posture in which the affair of the Chesapeake was left, its silence to you on that subject could not fail to excite the particular attention of the President : and the appearance is rendered the more unfavourable by the like silence, as we learn from Mr. Erskine, of the despatches brought to him by the packet which left England and arrived at New York at nearly the same time with the Osage. I have intimated to Mr. Erskine the impressions made by this reserve, without, however, concealing our hope that the delay does not imply a final purpose of withholding reparation, and that the next communications from London will be of a different import. They must at least ascertain the real views of the British government on this interesting subject.”

“There was certainly no just ground for Mr. Canning to expect any particular communications from you on the arrival of the Osage, unless they should have grown out of such accounts from France as would second our demands of justice from Great Britain, particularly the revocation of her orders in council : and in imparting to him what you did from that quarter, every proof of candour was given which the occasion admitted.

If Mr. Canning was disappointed, because he did not receive fresh complaints against the orders in council, he ought to have recollected, that you had sufficiently dwelt on their offensive features, in the first instance ; and that as he had chosen to make the formal communication of them to this government through another channel, it was through that channel, rather than through you, that answers to it would be most regularly given.”

“The communications and instructions forwarded by Mr. Purviance, who was a passenger in the St. Michael, will enable you to bring the British government to a fair issue on the subject of its orders. If it has nothing more

in view than it is willing to avow, it cannot refuse to concur in an arrangement, rescinding, on her part, the orders in council; and on ours, the embargo. If France should concur in a like arrangement, the state of things will be restored, which is the alleged object of the orders. If France does not concur, the orders will be better enforced by the continuance of the embargo against her, than they are by the British fleets and cruisers, and in the mean time, all the benefits of our trade will be thrown into the lap of Great Britain. It will be difficult, therefore, to conceive any motive in Great Britain to reject the offer which you will have made, other than the hope of inducing, on the part of France, a perseverance in her irritating policy towards the United States, and, on the part of the latter, hostile resentments against it.

If the British government should have elected the more wise and more worthy course, of meeting the overture of the President, in the spirit which dictated it, it is to be hoped, that measures will have been taken in concert with you, and through its minister here, for hastening, as much as possible, the renewal of the intercourse, which the orders and the embargo have suspended; and thereby smoothing the way for other salutary adjustments.

It appears that the British government, not satisfied with the general blockade, by her orders of November 11th, has superadded a particular blockade, or rather a diplomatic notification of an intended one, of Copenhagen, and *the other ports* in the island of Zealand; that is to say, a strict and legal blockade of the whole island. The island cannot be much less than two hundred miles in its outline, and is described as abounding in inlets. It is not probable, therefore, if it be possible, that the blockade, within the true definition, should be carried into effect. And as all defective blockades, whether so in the disproportion of force to the object, or in the mode of notification, will authorize fair claims of indemnification, it is the more necessary that guarded answers should be given, in such cases, as heretofore suggested.

Since the British order of evidently inviting our citizens to violate the laws of their country, by patronising on the high seas their vessels destitute of registers, and other necessary papers, and therefore necessarily smugglers, if not pirates. the circular letter of Mr. Huskisson

has made its appearance ; in which the United States are named as alone within the purview of the order. A more extraordinary experiment is perhaps not to be found in the annals of modern transactions. It is levelled, moreover, against a nation towards which friendship is professed, as well as against a law, the justice and validity of which are not contested ; and it sets the odious example, in the face of the world, directly in opposition to all the principles which the British government has been proclaiming to it. What becomes of the charge against the United States for receiving British subjects who leave their own country contrary to their allegiance ? What would be the charge against them, if they were, by proclamation, to invite British subjects, those too expressly and particularly prohibited from leaving their country, to elude the prohibition ; or to tempt, by interested inducements, a smuggling violation or evasion of laws on which Great Britain founds so material a part of her national policy ? In the midst of so many more important topicks of dissatisfaction, this may not be worth a formal representation. But it will not be amiss to let that government understand the light in which the proceeding is regarded by this. I have already touched on it to Mr. Erskine, with an intimation that I should not omit it in my observations to you."

"The French decree, said to have been issued at Bayonne, has not yet reached this country. Such a decree, at such a time has a serious aspect on the relations of the two countries, and will form a heavy item in our demands of redress. It is much to be regretted, at the same time, that any of our vessels, by neglecting to return home, and conforming to the arbitrary regulations of one belligerent, should expose themselves to the arbitrary proceedings of another. So strong and general an indignation seems particularly to prevail here against the Americans in Europe, who are trading under British licences, and thereby sacrificing, as far as they can, the independence of their country, as well as frustrating the laws which were intended to guard American vessels and mariners from the dangers incident to foreign commerce, that their continuance in that career ought to be frowned upon, and their return home promoted in every proper manner. It appears by information from our consul at Tangier, that great numbers of our vessels are engaged in a trade between

Great Britain and Spanish ports, under licenses from the former, and that the experiment proves as unsuccessful as it is dishonourable ; the greater part of them being either arrested in port, or by French and Spanish cruisers."

Mr. Pinkney to Mr. Madison. London, Feb. 23, 1808.

SIR,—Mr. Canning has just sent me a note, of which a copy is enclosed, relative to an intended alteration, upon the subject of cotton, in their bill for carrying into execution the late orders in council. You will perceive, that he lays some stress upon the accidental observations, which (as already explained to you in my letter of the 26th of last month) were drawn from me, some time since, upon the singularly offensive project of imposing a transit duty upon our cotton. I mentioned to you in my letter of the 2d inst. that he appeared to have misapprehended the tendency of these observations, and that, in a subsequent conversation, he showed a disposition to remove this obnoxious feature from their plan, for the purpose of substituting an absolute interdict of the export of that article, under an idea that we should then cease to object to it : but that I thought it my duty to decline to give him any encouragement to do so, although I agreed, as he seemed to wish it, to mention his disposition to you. A few days ago, he sent for me again, and renewed his proposal, of an immediate change, with respect to cotton, from a prohibitory duty, to a direct prohibition. My answer was the same in substance as it had been before. He then suggested the alternative arrangement, which you will see stated in this note ; but, adhering to the determination I had formed, upon the first appearance of the orders in council, to make no compromise (without precise directions from my government) with the system which they announce, by becoming a party to its details, I received this proposal as I had done the other.

The British government, however, had resolved to adopt this last mentioned plan, whether it received my concurrence or not, upon a presumption, that it would be more acceptable to us, and, perhaps, too, under the idea, that it was more defensible than their original scheme ; and the purpose of Mr. Canning's note is merely to signify to me,

in a manner as friendly and respectful as possible to the United States, their intention to propose it to parliament. One object of all this is, certainly, to conciliate us, although it may be another, to free their system, as far as they can, from the disadvantage of one of the formidable reproaches which their opponents cast upon it. But the wise and magnanimous course would be, at once to tread back their steps upon the whole of this ill-judged measure, instead of relying upon small and unsubstantial modifications, which neither produce an effect upon its character and principle, nor mitigate the severity of its practical consequences. I might, if I thought it advisable, take the occasion, which Mr. Canning's note undoubtedly furnishes, to press upon him, once more, the policy, as well as the justice of such a course; but I believe it, under all circumstances, to be more prudent to wait for your instructions, which must, I think, be very soon received.

I have already had the honour to send you two copies of the resolutions moved in the house of commons by the chancellor of the exchequer, as tables of export duties, to which their bill should refer. I have enclosed in another letter, with which this will be accompanied, a copy of the bill itself, which will, however, undergo several alterations. These will be found to be explained (as far as I am acquainted with them) in the letter above mentioned.

I have the honour to be, &c.

WILLIAM PINKNEY.

Hon. James Madison, Sec'ry of State.

Mr. Canning to Mr. Pinkney. Foreign Office, February 22, 1803.

SIR,—I have already had the honour of assuring you in conversation, of the disposition which is felt by the British government, to give due weight to the observations which you have made to me, respecting the unfavourable impression likely (in your opinion) to be excited in the United States, by the duty proposed to be levied upon cotton, destined for the use of the enemy, but brought into the ports of this country, conformably to the tenour of the orders of council of the 11th of November last.

You are already apprized, that the principle, upon which the whole of this measure has been framed, is that of re-

fusing to the enemy those advantages of commerce which he has forbidden to this country.

The simple method of enforcing this system of retaliation, would have been to follow the example of the enemy, by prohibiting altogether all commercial intercourse between him and other states.

It was from considerations of indulgence to neutral trade, that the more mitigated measure of permitting intercourse under the restraints and regulations of a duty, *in transitu*, was adopted; and being adopted with this view, it was not immediately felt by the British government, that there might be a distinction taken by neutral states, with respect to articles the produce of their own soil, and that while the commutation of prohibition into duty was acknowledged as an indulgence, when applied to articles of foreign commerce, of which they were only the carriers, it might be considered as an invidious imposition when applied to their own productions.

The moment that this distinction has been explained to the British government, they have been desirous of manifesting every attention to it; and if you, sir, had been possessed of the necessary authority from your government, there would have been no difficulty in entering into a specifick agreement with you upon the subject. In order, however, to obviate the objection, in a great degree, I have the honour to inform you, that it is intended to be proposed to parliament, that all cotton, brought into this country, in conformity to the orders of council, should be absolutely prohibited from being exported to the territories of the enemy. But as you are not prepared to take upon yourself to say, that in no case the option would be acceptable, an option will still be left to the neutral owner, either to acquiesce in the total prohibition, or to re-export the article, on the payment of such a duty as parliament may judge it expedient to impose.

I flatter myself, sir, that this alteration in the legislative regulations, by which the orders of council are intended to be carried into execution, will be considered by you as a satisfactory evidence of the disposition of his majesty's government to consult the feelings as well as the interests of the United States, in any manner which may not impair the effect of that measure of commercial restriction, to which

the necessity of repelling the injustice of his enemies has obliged his majesty, reluctantly, to have recourse.

I have the honour to be, &c.

GEORGE CANNING.

William Pinkney, Esq. &c. &c. &c.

*Mr. Pinkney to Mr. Canning. Great Cumberland Place,
February 23, 1808.*

MR. PINKNEY presents his compliments to his excellency, Mr. Canning, and has the honour to acknowledge the receipt of his note of yesterday, relative to an alteration on the subject of cotton, in the legislative regulations, by which the late orders in council are intended to be carried into execution, which Mr. Pinkney will hasten to transmit to his government.

Mr. Pinkney requests Mr. Canning to accept the assurances of his high consideration.

Mr. Pinkney to Mr. Madison. London, May 9, 1808.

"I HAD a conversation with Mr. Canning on Friday last, in consequence of the arrival of the Osage.

As it was obviously expected that I should seek an interview with him, I went to Downing street on the 5th with that object. He had been indisposed, and was not at the office; but in answer to a note which I sent him in the evening, he asked to see me next day at his house in Bruton street.

The Osage had for some time been looked for with considerable anxiety, and the government had apparently anticipated a communication (and perhaps a proposal) of some importance, from me, as soon as my depatches should be received. As I had, in fact, no communication to make, it seemed to be proper that I should render the disappointment of as little moment as possible, by the manner of announcing it, without, however, putting any thing to hazard by an indiscreet manifestation of unnecessary solicitude.

The little which I supposed it requisite to say on this occasion appeared to be very well received: and, if any

disagreeable impression was left on the mind of Mr. Canning, it certainly was not visible. A feeling of regret was perhaps perceptible, and a hope was intimated that the time was not far distant, when I should be enabled to do what, at present, was out of my power; but nothing occurred which could be construed into a symptom of impatience, jealousy, or dissatisfaction. There was, undoubtedly, no real ground for any thing of this sort; but it was, notwithstanding, quite possible that the importance, which it had become a habit to attach to the arrival of the *Osage*, from circumstances principally accidental, might have produced a disposition to think otherwise.

I thought it advisable to make use of this opportunity (although the topick was, in many views, more delicate than it had been) to suggest the propriety of yielding, as the moment was sufficiently favourable to such a course, upon the subject of the late orders in council, of which I had seen nothing to change my original opinion. There was reason to apprehend, however, that it might be worse than useless to press the suggestion, upon my own authority merely, while I could say nothing of the French decrees; and, accordingly, I forbore to do so.

An idea has evidently gone forth, since the *Osage* arrived, founded upon rumours of a doubtful description, that our relations with France have grown to be extremely precarious, and that we are consequently about to come to an understanding of a very friendly kind with Great Britain. It is not improbable that the government has, in some degree at least, adopted this idea.

I have the honour to enclose a copy of a notification, recently received from Mr. Canning, of the blockade of Copenhagen, and of the other ports in the island of Zealand, which I have caused to be communicated in the usual manner, to our consuls and citizens."

"There being no particular inducement for detaining the *Osage*, lieutenant Lewis, who will be charged with my letters, will leave town the day after to-morrow; and the ship will sail as soon after he reaches Falmouth as possible."

NOTIFICATION.

Mr. Canning to Mr. Pinkney.

THE undersigned, his majesty's principal secretary of state for foreign affairs, has received his majesty's command to acquaint Mr. Pinkney, that his majesty has judged it expedient to establish the most rigorous blockade of the port of Copenhagen, and of all the other ports in the island of Zealand. Mr. Pinkney is therefore requested to apprise the American consuls and merchants residing in England, that the entrances of all the ports abovementioned are, and must be considered as being in a state of blockade, and that from this time all the measures authorized by the law of nations, and the respective treaties between his majesty and the different neutral powers, will be adopted and executed with respect to all vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

GEORGE CANNING.

Foreign Office, May 4, 1808.

Extract of a Letter from Mr. Pinkney to the Secretary of State of the United States. London, June 5, 1808.

"I HAVE the honour to acknowledge the receipt of your letter of the 4th of April, by Mr. Bethune, together with the printed and other copies of papers mentioned in it.

I am to have an interview with Mr. Canning in a few days (which he will agree to consider extra official) in the course of which I intend to press, by every argument in my power, the propriety of their abandoning immediately their orders in council, and of proposing in America (the only becoming course, as you very properly suggest) reparation for the outrage on the Chesapeake. I shall for obvious reasons do this, informally, as my own act.

Your unanswerable reply to Mr. Erskine's letter of the 23d February, has left nothing to be urged against the orders in council upon the score of right; and there may be room to hope that the effect, which that reply can hardly have failed to produce upon ministers, as well by its tone

as by its reasoning, will, if followed up, become under actual circumstances, decisive. The discussion, which Mr. Rose's preliminary in the affair of the Chesapeake, has undergone, gives encouragement to an expectation, that this government will not now be backward to relinquish it, and to renew their overture of satisfaction in a way more consistent with reason, and more likely to produce a just and honourable result.

You may be assured that I will not commit our government by any thing I shall do or say, and that, if I cannot make things better than they are, I will not make them worse.

My view of the course which our honour and our interests have required, and still require, is, as you know, in precise conformity with that of the President; but if it were otherwise, I should make his view, and not my own, the rule of my conduct."

*Extracts of a Letter from Mr. Pinkney to Mr. Madison.
London, August 4, 1808.*

"THE St. Michael arrived at Falmouth on Thursday the 14th of last month, after a passage of eight days from L'Orient. Captain Kenyon delivered to me on Wednesday, the 20th (upon my arrival in town from Brighton, where I had been for a short time on account of my health) your letters of the 30th of April, and your private letter of the 1st of May, together with newspapers, printed copies of the embargo act and its supplements, and of papers laid before Congress at their last session. Mr. Hall brought me a letter from general Armstrong of the 26th of June, (of which I send an extract) and Mr. Upson brought me a private letter from him with the following postscript of the first of July. "An order has been received from Bayonne to condemn eight other of our ships."

On Friday the 22d of July, I had an interview with Mr. Canning, and renewed my efforts to obtain a revocation of the British orders of January and November, 1807, and of the other orders dependent upon them. I have already informed you in my private letter of the 29th of June, that on the morning of its date, I had a long conversation with Mr. Canning, which had rendered it somewhat

probable that the object mentioned in your letter of the 30th of April, (of which I had received a duplicate by the packet) would be accomplished, if I should authorize the expectation which that letter suggests; but that some days must elapse before I could speak with any thing like certainty on the subject: and I have mentioned in another private letter (of the 10th of July) that it was understood between Mr. Canning and myself, that another interview should take place soon after the prorogation of parliament. In effect, however, Mr. Canning was not prepared to see me again, until the 22d of July, after I had been recalled to London by the arrival of the *St. Michael*, and had, in consequence, reminded him of our arrangement by a private note.

In the interview of the 29th of June, I soon found it necessary to throw out an intimation, that the power vested in the President by Congress, to suspend the embargo act and its supplements, would be exercised as regarded Great Britain, if their orders were repealed, as regarded the United States. To have urged the revocation, upon the mere ground of strict right, or of general policy, and there to have left the subject, when I was authorized to place it upon grounds infinitely stronger, would have been, as it appeared to me, to stop short of my duty. Your letters to Mr. Erskine (which Mr. Canning has read and considered) had exhausted the first of these grounds; and endless discussions here, in every variety of form, in and out of parliament, had exhausted the second. There was, besides, no objection of any force, to my availing myself, without delay, of the powerful inducements, which the intimation in question was likely to furnish to Great Britain, to abandon her late system; and it seemed to be certain that, by delaying to present these inducements to Mr. Canning's consideration, I should not only lose much time, but finally give to my conduct a disingenuous air, which, while it must be foreign to the views and sentiments of the President, could hardly fail to make a very unfavourable impression upon the minds of Mr. Canning and his colleagues. I thought, moreover, that if I should reserve the suggestion for a late stage of our discussions, it would be made to wear the appearance of a concession reluctantly extorted, rather than of what it was, the spon-

taneous result of the characteristick frankness and honourable policy of our government.

The intimation once made, a complete development of its natural consequences, if properly acted upon, followed of course; and taking advantage of the latitude afforded by the informal nature of a mere conversation, I endeavoured to make that development as strong an appeal as, consistently with truth and honour I could, (and there was no necessity to do more) to the justice and the prudence of this government.

It was not possible, however, that Mr. Canning could require to be assisted by my explanations. It was plain, upon their own principles, that they could not equitably persevere in their orders in council, upon the foundation of an imputed acquiescence, on our part, in French invasions of our neutral rights, when it was become (if it was not always) apparent, that this imputation was completely and in all respects an error; when it was manifest that these orders, by letting loose upon our rights a more destructive and offensive persecution than it was in the power of France to maintain, interposed between us and France, furnished answers to our remonstrances against her decrees and pretexts for those decrees, and stood in the way of that very resistance which Great Britain affected to inculcate, as a duty, at the moment when she was taking the most effectual measures to embarrass and confound it; and when it was also manifest, that a revocation of those orders would, if not attended or followed by a revocation of the decrees of France, place us at issue with that power, and result in a precise opposition, by the United States, to such parts of her anti-commercial edicts as it became us to repel.

In a prudential view my explanations seemed still less to be required. Nothing could be more clear than that, if Great Britain revoked her orders, and entitled herself to a suspension of the embargo, her object, (if it were any thing short of the establishment and practical support of an exclusive dominion over the seas) must, in some mode or other, be accomplished. whether France followed her example, or not. In the first case, the avowed purpose of the British orders would be fulfilled, and commerce would resume its accustomed prosperity and expansion. In the last, the just resistance of the United States (more

efficacious than that of the British orders) to French irregularities and aggressions, would be left to its fair operation (and it was impossible to mistake the consequences,) while the commercial intercourse between the United States and Great Britain, being revived, would open the way for a return to good understanding, and, in the end, for an adjustment of all their differences."

"On the 29th of July I met Mr. Canning again, and was soon apprized that our discussions, if continued at all, must take a new form."

"As there is now no reason for detaining the *St. Michael*, she will be despatched immediately for L'Orient."

Mr. Pinkney to Mr. Madison. London, Sept. 6, 1808.

"I HAVE an opportunity of writing by Mr. Bethune, who leaves town to-morrow for Falmouth, to embark for the United States in the British packet; and I cannot omit to take advantage of it, although I have still nothing conclusive to communicate.

The *Hope* arrived off Falmouth, and landed Mr. Atwater, on the 16th of last month, and immediately proceeded on her voyage to Havre, with a fair wind. Mr. Atwater arrived in London on the 20th, in the evening, and delivered your letter of the 18th of July.

My publick letter of the 4th of August will have apprized you of the footing on which my different interviews with Mr. Canning left the subject of the British orders in council; and my private letter of the 2d of that month, will have made you acquainted with my intention to present, in an official note, what I had ineffectually suggested in conference.

To such a course there could not, even in the first instance, have been any other objection than that it was calculated to lead to discussion, rather than to adjustment; but, whatever might be its tendency, it is certain, that I could have no inducement to resort to it, until it was indicated by Mr. Canning as indispensable, nor any motive to decline it, afterwards.

At our last interview, and not before, it was unexpectedly found, that it was in that mode only, that I could obtain a knowledge of the light in which this government

thought fit to view the overture I had been directed to make to it ; and I determined, in consequence, to lay before it, in writing, the intentions of the President, with the same frankness which had characterized my verbal communications.

I have now the honour to transmit a copy of the note, which, in conformity with that determination, I delivered in person to Mr. Canning on the 26th of last month, a few days after its date. To this note no answer has yet been returned ; but it is to be presumed, that it will not be much longer withheld.

You will perceive, that some time had elapsed, after I had sent off my despatches by the *St. Michael*, (the 8th of August) before my note was presented. The truth is, that I had employed a part of that time in framing a note of great length, which, when nearly completed, I thought it prudent to abandon, in favour of one that held out fewer invitations to unprofitable discussions, which, although I would not shun them, if pressed upon me, I did not suppose it proper that I should seek.

I believed, too, that a little delay on my part would be far from being disadvantageous. There would still be sufficient time for obtaining a final answer to my proposal, in season for the meeting of Congress ; and as the temper of this government, so far as it had been tried, had not appeared to be favourable to my purpose, I believed that I should act in the spirit of my instructions, and consult the honour of my government, by avoiding, under such circumstances, the appearance of urgency and precipitation.

Upon the terms or general plan of my note, it is not, I hope, necessary to remark. You will discover, that it was prepared under a persuasion that, whatever might be its effect, it was infinitely better to make it as conciliatory as, without a sacrifice of principle or national dignity, was possible.

The topics to be embraced by it were such as did not demand, but rather forbade, minute exposition. While it was difficult to urge, in their full force, without seeming to aim at exciting a disposition unfriendly to the object of my instructions, all the considerations which justified the United States in remonstrating against the British orders, it was yet more difficult, without a degree of harshness,

scarcely suited to the occasion, and without also the hazard of indiscretion, to display in detail the signal injustice and impolicy of persevering in them, after what I had proposed. This could be done, and had been done in conversation ; but it did not, upon trial, appear to be equally practicable, in the more formal and measured proceeding which I was now called upon to adopt.

I considered, besides, that an overture, so highly advantageous to Great Britain, which the United States were not bound to make by any obligations of equity, although it was wise to make it, did not require, with any view to the character of my country, or even to the success of the overture itself, to be again recommended, by an anxious repetition of arguments already fully understood.

As soon as my note was prepared, I called at the foreign office to arrange an interview with Mr. Canning for the purpose of enabling me to accompany the delivery of it with a communication, which I deemed important, as well as of affording him an opportunity of asking and receiving such explanations as he might desire. The interview took place on the 26th of August.

It had occurred to me that it would be proper (and could not be injurious) to read to Mr. Canning, from your letter to me of the 18th of July, a brief summary of the instructions under which I was acting. This had not been requested ; but it could not be unacceptable, and it was, besides, well calculated to do justice to the liberal sentiments by which my instructions had been dictated, as well as to give weight to my efforts in the execution of them.

I was led, by the reading of these passages, (without having originally intended it) into a more extensive explanation, than I had before attempted, of the influence which the proposal of my government would have, in truth, as well as in the judgment of the world, upon the supposed justice of their new system, as it affected the United States. To that explanation, with the particulars of which I will not, and indeed, for want of time, cannot, at present trouble you, I added a concise recapitulation of some of the prudential considerations which had been so often pressed before, and there I left the subject."

*Mr. Pinkney to Mr. Madison. London, September 24.
1808.*

"I AM now enabled to transmit to you a copy of Mr. Canning's answer, received only last night, to my note of the 23d of August."

"I regret extremely that the views, which I have been instructed to lay before this government have not been met by it as I had at first been led to expect. The overture cannot fail, however, to place in a strong light the just and liberal sentiments by which our government is animated, and, in other respects, to be useful and honourable to our country."

*Mr. Pinkney to Mr. Canning. Great Cumberland Place,
Aug. 23, 1808.*

SIR,—I have had the honour, in consequence of the orders of the President, to recall your attention, in the course of several recent interviews, to the British orders in council, of the 7th of January and 11th of November, 1807, and to the various other orders founded upon or in execution of them : and I now take the liberty to renew, in the mode which I have understood to be indispensable, my instances on that subject.

I need scarcely remind you, sir, that the government of the United States has never ceased to consider these orders as violating its rights, and affecting most destructively its interests, upon grounds wholly inadmissible, both in principle and fact.

The letters of Mr. Madison to Mr. Erskine, of the 20th and 29th of March, 1807, produced by the official communication of that minister of the order of the 7th of January, and the answer of Mr. Madison of the 25th of March, 1808, to a like communication of the orders of the 11th of November, contained the most direct remonstrances against the system which these orders introduce and execute, and expressed the confident expectation of the President. that it would not be persisted in.

That expectation has not yet been fulfilled; but it has, notwithstanding, not been relinquished. The President is still persuaded that its accomplishment will result from a careful review, by his majesty's government, made in the spirit of moderation and equity, of the facts and considerations which belong to the occasion.

It is not my purpose to recapitulate, in this note, the statements and reasonings contained in the abovementioned letters of Mr. Madison, in support of the claims of the government of the United States, that the British orders be revoked. I content myself with referring to those letters for proofs which it is not necessary to repeat, and for arguments which I could not hope to improve.

But there are explanations which those letters do not contain, and which it is proper for me to make. Even these, however, may be very briefly given, since you have already been made acquainted, in our late conversations, with all their bearings and details.

These explanations go to show, that, while every motive of justice conspires to produce a disposition to recall the orders of which my government complains, it is become apparent that even their professed object will be best attained by their revocation.

I have the honour to state to you, sir, that it was the intention of the President, in case Great Britain repealed her orders, as regarded the United States, to exercise the power vested in him by the act of the last session of Congress, entitled "An act to authorize the President of the United States, under certain conditions, to suspend the operation of the act laying an embargo on all ships and vessels in the ports and harbours of the United States, and the several supplementary acts thereto," by suspending the embargo law and its supplements, as regards Great Britain.

I am authorized to give you this assurance in the most formal manner; and I trust that, upon impartial inquiry, it will be found to leave no inducement to perseverance in the British orders, while it creates the most powerful inducements of equity and policy to abandon them.

On the score of justice it does not seem possible to mistake the footing upon which this overture places the subject; and I venture to believe that in any other view there is as little room for doubt.

If, as I propose, your orders should be rescinded as to the United States, and our embargo rescinded as to Great Britain, the effect of these concurrent acts will be that the commercial intercourse of the two countries will be immediately resumed; while, if France should adhere to maxims and conduct derogatory to the neutral rights of the United States, the embargo, continuing as to her, will take the place of your orders, and lead, with an efficacy not merely equal to theirs, but probably much greater, to all the consequences that ought to result from them.

On the other hand, if France should concur in respecting those rights, and commerce should thus regain its fair immunities, and the law of nations its just dominion, all the alleged purposes of the British orders will have been at once fulfilled.

If I forbear to pursue these ideas through all the illustrations of which they are susceptible, it is because the personal conferences to which I have before alluded, as well as the obvious nature of the ideas themselves, render it unnecessary.

I cannot conclude this note, without expressing my sincere wish, that what I have now suggested, in conformity with the liberal sentiments and enlightened views of the President, may contribute, not only to remove the more immediate obstacles to the ordinary intercourse of trade between your country and mine, in a manner consistent with the honour of both, but to prepare the way for a satisfactory adjustment of every question important to their future friendship.

I have the honour to be, &c.

WILLIAM PINKNEY.

The Rt. Hon. George Canning, &c. &c.

Mr. Canning to Mr. Pinkney. Foreign Office, September 23, 1808.

THE undersigned, his majesty's principal secretary of state for foreign affairs, had the honour to receive the official letter addressed to him by Mr. Pinkney, minister plenipotentiary of the United States, respecting the orders in council issued by his majesty on the 7th of January and 11th of November, 1807.

He has laid that letter before the king: and he is commanded to assure Mr. Pinkney, that the answer to the proposal, which Mr. Pinkney was instructed to bring forward, has been deferred only in the hope that the renewed application, which was understood to have been recently made by the government of the United States to that of France, might, in the new state of things which has arisen in Europe, have met with such a reception in France, as would have rendered the compliance of his majesty with that proposal consistent, as much with his majesty's own dignity, and with the interests of his people, as it would have been with his majesty's disposition towards the United States.

Unhappily, there is now no longer any reason to believe, that such a hope is likely to be realized; and the undersigned is, therefore, commanded to communicate to Mr. Pinkney the decision, which, under the circumstances as they stand, his majesty feels himself compelled, however unwillingly, to adopt.

The mitigated measure of retaliation, announced by his majesty in the order in council of the 7th of January, and the further-extension of that measure (an extension in operation, but not in principle) by the orders in council of November, were founded (as has been already repeatedly avowed by his majesty) on the "unquestionable right of his majesty to retort upon the enemy the evils of his own injustice;" and upon the consideration, that "if third parties incidentally suffered by these retaliatory measures, they were to seek their redress from the power, by whose original aggression that retaliation was occasioned."

His majesty sees nothing in the embargo, laid on by the President of the United States of America, which varies this original and simple state of the question.

If considered as a measure of impartial hostility against both belligerents, the embargo appears to his majesty to have been manifestly unjust, as, according to every principle of justice, that redress ought to have been first sought from the party originating the wrong. And his majesty cannot consent to buy off that hostility, which America ought not to have extended to him, at the expense of a concession made, not to America, but to France.

If, as it has more generally been represented by the government of the United States, the embargo is only to be considered as an innocent municipal regulation, which affects none but the United States themselves, and with which no foreign state has any concern; viewed in this light, his majesty does not conceive, that he has the right, or the pretension, to make any complaint of it, and he has made none. But, in this light, there appears not only no reciprocity, but no assignable relation, between the repeal, by the United States, of a measure of voluntary self restriction, and the surrender, by his majesty, of his right of retaliation against his enemies.

The government of the United States is not now to be informed, that the Berlin decree of November 21st, 1806, was the practical commencement of an attempt, not merely to check or impair the prosperity of Great Britain, but utterly to annihilate her political existence, through the ruin of her commercial prosperity; that in this attempt, almost all the powers of the European continent have been compelled, more or less, to co-operate; and that the American embargo, though most assuredly not intended to that end, (for America can have no real interest in the subversion of the British power, and her rulers are too enlightened to act from any impulse, against the real interests of their country) but by some unfortunate concurrence of circumstances, without any hostile intention, the American embargo did come in aid of the "blockade of the European continent," precisely at the very moment, when, if that blockade could have succeeded at all, this interposition of the American government would most effectually have contributed to its success.

To this universal combination, his majesty has opposed a temperate, but a determined retaliation upon the enemy; trusting, that a firm resistance would defeat this project; but knowing that the smallest concession would infallibly encourage a perseverance in it.

The struggle has been viewed by other powers, not without an apprehension that it might be fatal to this country. The British government has not disguised from itself, that the trial of such an experiment might be arduous and long; though it has never doubted of the final issue. But if that issue, such as the British government confidently anticipated, has providentially arrived much

sooner than could even have been hoped ; if “ the blockade of the continent,” as it has been triumphantly styled by the enemy, is raised even before it had been well established, and if that system, of which, extent and continuity were the vital principles, is broken up into fragments utterly harmless and contemptible ; it is nevertheless important in the highest degree, to the reputation of this country, (a reputation which constitutes great part of her power,) that this disappointment of the hopes of her enemies should not have been purchased by any concession ; that not a doubt should remain to distant times, of her determination and of her ability to have continued her resistance ; and that no step, which could even mistakenly be construed into concession, should be taken on her part, while the smallest link of the confederacy remains undissolved, or while it can be a question, whether the plan devised for her destruction, has, or has not, either completely failed, or been unequivocally abandoned.

These considerations compel his majesty to adhere to the principles on which the orders in council of the 7th of January, and the 11th of November, are founded, so long as France adheres to that system, by which his majesty's retaliatory measures were occasioned and justified.

It is not improbable, indeed, that some alterations may be made in the orders in council, as they are at present framed, alterations calculated not to abate their spirit or impair their principle, but to adapt them more exactly to the different state of things which has fortunately grown up in Europe, and to combine all practicable relief to neutrals with a more severe pressure upon the enemy.

But of alterations to be made with this view only, it would be uncandid to take any advantage in the present discussion : however, it might be hoped, that in their practical effect, they might prove beneficial to America, provided the operation of the embargo were not to prevent her from reaping that benefit.

It remains for the undersigned to take notice of the last paragraph of Mr. Pinkney's letter. There cannot exist, on the part of Mr. Pinkney, a stronger wish, than there does on that of the undersigned, and of the British government, for the adjustment of all the differences subsisting between the two countries.

His majesty has no other disposition than to cultivate the most friendly intercourse with the United States.

The undersigned is persuaded, that Mr. Pinkney would be one of the last to imagine, what is often idly asserted, that the depression of any other country is necessary or serviceable to the prosperity of this. The prosperity of America is essentially the prosperity of Great Britain, and the strength and power of Great Britain are not for herself only, but for the world. When those adjustments shall take place, to which, though unfortunately not practicable at this moment, nor under the conditions prescribed by Mr. Pinkney, the undersigned, nevertheless, confidently looks forward; it will perhaps be no insecure pledge for the continuance of the good understanding between the two countries, that they will have learnt duly to appreciate each other's friendship; and that it will not hereafter be imputed to Great Britain, either on the one hand, that she envies American industry as prejudicial to British commerce, or, on the other hand, that she is compelled to court an intercourse with America, as absolutely necessary to her own existence.

His majesty would not hesitate to contribute in any manner in his power, to restore to the commerce of the United States, its wonted activity; and if it were possible to make any sacrifice for the repeal of the embargo, without appearing to deprecate it as a measure of hostility, he would gladly have facilitated its removal, as a measure of inconvenient restriction upon the American people.

The undersigned is commanded, in conclusion, to observe, that nothing is said in Mr. Pinkney's letter, of any intention to repeal the proclamation, by which the ships of war of Great Britain are interdicted from all those rights of hospitality in the ports of the United States, which are freely allowed to the ships of his majesty's enemies.

The continuance of an interdiction which, under such circumstances, amounts so nearly to direct hostility, after the willingness professed, and the attempt made by his majesty, to remove the cause on which that measure had been originally founded, would afford but an inauspicious omen for the commencement of a system of mutual conciliation; and the omission of any notice of that measure in the proposal which Mr. Pinkney has been instructed to bring

forward, would have been of itself a material defect in the overture of the President.

But the undersigned is commanded no farther to dwell upon this subject than for the purpose of assuring Mr. Pinkney, that on this and every other point in discussion, between the two governments, his majesty earnestly desires the restoration of a perfect good understanding; and that his majesty would decline no measure for the attainment of that object, which should be compatible with his own honour and just rights, and with the interests of his people.

The undersigned requests Mr. Pinkney will accept the assurances of his high consideration.

GEORGE CANNING.

*Copy of a Letter from the Hon. David M. Erskine, Esq.
Envoy Extraordinary and Minister Plenipotentiary of his
Britannick Majesty, to the Secretary of State of the United
States. Washington, March 12, 1807.*

SIR,—I am charged by his majesty to express to the government of the United States, his majesty's perfect confidence in their good sense and firmness in resisting the unjust pretensions contained in the decree issued by the French government at Berlin, on the 21st November, which, if suffered to take effect, must prove so destructive to the commerce of all neutral nations.

His majesty has learnt that the measures announced in this decree, have already, in some instances, been carried into execution by the privateers of the enemy, and there could be no doubt that his majesty would have an indisputable right to exercise a just retaliation. Neutral nations cannot, indeed, expect that the king should suffer the commerce of his enemies to be carried on through them, whilst they submit to the prohibition which France has decreed against the commerce of his majesty's subjects. But though this right of retaliation would unquestionably accrue to his majesty, yet his majesty is unwilling, except in the last extremity, to have recourse to measures which must prove so distressing to all nations not engaged in the war against France.

His majesty, therefore, with that forbearance and moderation which have at all times distinguished his conduct, has determined, for the present, to confine himself to the exercise of the power given him by his decided naval superiority, in such a manner only as is authorized by the acknowledged principles of the law of nations, and has issued an order for preventing all commerce from port to port of his enemies, comprehending in this order, not only the ports of France, but those of other nations, as, either in alliance with France, or subject to her dominion, have by measures of active offence, or by the exclusion of British ships, taken a part in the present war.

His majesty feels an entire confidence that the moderation and justice of this conduct will be duly appreciated by the United States, and has charged me to express to their government, in the strongest terms, the regret he has experienced in being thus compelled, in his own defence, to act in a manner which must prove in some degree embarrassing to the commerce of neutral nations, and his sincere desire to avoid any stronger measures, to which, however, if the injustice and aggression of his enemies should not be resisted by those nations, whose rights and interests are invaded by so flagrant a violation of all publick law, it may be ultimately necessary for the king to have recourse.

I have the honour to be, &c.

D. M. ERSKINE.

Hon. James Madison, Esq.
Secretary of State.

Mr. Madison to Mr. Erskine. Department of State, March 20, 1807.

SIR,—I have laid before the President your letter of the 12th instant, communicating the views of his Britannick majesty, in relation to the French decree of November 21st, 1806, and the principle of retaliation, through the commerce of neutrals, who may submit to the operation of that decree; as also, the measure actually taken, of prohibiting all neutral commerce from port to port, of his enemies, not only the ports of France, but those of such other nations, as, either in alliance with France, or subject to her dominion, have, by measures of active offence,

or by the exclusion of British ships, taken a part in the present war.

The President cannot be insensible, sir, to the friendship and confidence towards the United States, which are signified by his Britannick majesty in this communication. In making this acknowledgment, however, the President considers it not less incumbent on him, to reserve, for a state of things which it is hoped may never occur, the right of discussing the legality of any particular measures, to which resort may be had, on a ground of retaliation. At this time, it would suffice to observe, that it remains to be more fully ascertained, in what sense the decree in question will be explained, and to what extent it will be carried into execution ; and consequently, whether in any case, the United States can be involved in questions concerning measures of retaliation, supposed to accrue to one belligerent, from such a proceeding, by another. But it is worthy the justice and the liberality of the British government to recollect, that within the period of those great events which continue to agitate Europe, instances have occurred, in which the commerce of neutral nations, more especially of the United States, has experienced the severest distresses from its own orders and measures, manifestly unauthorized by the law of nations. The respect which the United States owe to their neutral rights, and the interest they have in maintaining them, will always be sufficient pledges, that no culpable acquiescence on their part, will render them accessory to the proceedings of one belligerent nation, through their rights of neutrality, against the commerce of its adversary.

With regard to the particular order issued against the trade of neutrals, from one port to another of the enemies of Great Britain, no fair objection can lie against it, provided it be founded on, and enforced by, actual blockades as authorized by the law of nations. If, on the other hand, the order has reference, not to such a blockade, but to a supposed illegality of the neutral trade from one to another of the described ports, the remark is obvious, that on that supposition, the order is superfluous ; the trade being, as interdicted by the law of nations, liable at all times, without any such order, to the capture of British cruisers, and the condemnation of British courts ; and if not interdicted as such by the law of nations, it can re-

otherwise be made illegal, than by a legal blockade of the ports comprehended in the order. This inference is applicable even to the case of a neutral trade between the ports of France herself; since it is not a principle of the acknowledged law of nations, that neutrals may not trade from one to another port of the same belligerent nation. And it would be an innovation on that law, not before attempted, to extend the principle to a neutral trade between ports of different countries, confessedly open in times of peace as well as of war.

If the British order refers for its basis, to the principle of retaliation against the French decree, it falls under the observations already made on that subject, and which need not be repeated.

I am, &c.

JAMES MADISON.

Hon. David M. Erskine, &c. &c.

Mr. Madison to Mr. Erskine. Department of State, March 25, 1808.

SIR,—Having laid before the President your letter of the 23d of February, explaining the character of certain British orders of council issued in November last, I proceed to communicate the observations and representations, which will manifest to your government the sentiments of the President on so deep a violation of the commerce and rights of the United States.

These orders interdict to neutral nations, or rather to the United States, now the only commercial nation in a state of neutrality, all commerce with the enemies of Great Britain, now nearly the whole commercial world, with certain exceptions only, and under certain regulations, but too evidently fashioned to the commercial, the manufacturing, and the fiscal policy of Great Britain; and on that account the more derogatory from the honour and independence of neutral nations.

The orders are the more calculated to excite surprise in the United States, as they have disregarded the remonstrances conveyed in my letters of the 20th and 29th of March, 1807, against another order of council, issued on a similar plea, in the month of January, 1807. To those just

remonstrances no answer was indeed ever given; whilst the order has continued in its pernicious operation against the lawful commerce of the United States; and we now find added to it others, instituting still more ruinous depredations, without even the addition of any new pretext: and when, moreover, it is notorious that the order of January was of a nature greatly to overbalance, in its effects, any injuries to Great Britain that could be apprehended from the illegal operation of the French decree, on which the order was to retaliate, had that decree, in its illegal operation, been actually applied to the United States, and been acquiesced in by them.

The last orders, like that of January, proceed on the most unsubstantial foundation. They assume for fact, an acquiescence of the United States in an unlawful application to them of the French decree: and they assume for a principle, that the right of retaliation accruing to one belligerent is not to have for its measure that of the injury received; but may be exercised in any extent, and under any modifications, which may suit the pleasure or the policy of the complaining party.

The fact, sir, is unequivocally disowned. It is not true that the United States have acquiesced in an illegal operation of the French decree: nor is it even true, that at the date of the British orders of November 11, a single application of that decree to the commerce of the United States, on the high seas, can be presumed to have been known to the British government.

The French decree in question has two distinct aspects; one clearly importing an intended operation within the territorial limits as a local law; the other apparently importing an intended operation on the high seas.

Under the first aspect, the decree, however otherwise objectionable, cannot be said to have violated the neutrality of the United States. If the governing powers on the continent of Europe choose to exclude from their ports, British property or British productions, or neutral vessels proceeding from British ports, it is an act of sovereignty which the United States have no right to controvert. The same sovereignty is exercised by Great Britain, at all times, in peace as well as in war, towards her friends as well as her enemies. Her statute book presents a thousand illustrations.

It is only, therefore, under the other aspect of the decree, that it can have violated neutral rights: and this would have resulted from its execution on the high seas, whether on the pretext of a nominal blockade, or with a view to enforce a domestick regulation against foreign vessels, not within the domestick precincts, but under the authority and protection of the law of nations.

Had then the French decree been executed on the high seas against the commerce of the United States with Great Britain; and have the United States acquiesced in the unlawful and injurious proceeding?

I state, sir, on undeniable authority, that the first instance, in which that decree was put in force against the neutral rights of the United States, was that of the *Horizon*, an American ship bound from Great Britain to Lima, wrecked within the territorial jurisdiction of France, but condemned under an exposition of the decree, extending to the high seas its operation against neutrals. This judicial decision took place as late as the 16th day of October, 1807, and was not officially known to the minister plenipotentiary of the United States at Paris till some time in November. At the date, therefore, of the first order of Great Britain, no injury whatever had been done to her, through an aggression on the commerce of the United States. No presumption even had been sufficiently authorized, that the express stipulations in the treaty of France with the United States would not exempt their commerce, at least, from the operation of any edict incompatible with them. At the date even of the latter orders of November 11, it appears that the only aggression, which had then occurred, was pretty certainly unknown to the British government, and could therefore have had no share in producing this alleged retaliation.

To the fact, that the case of the ship *Horizon* was the first that occurred, of an execution of the French decree on the high seas, I am able to add, that as late as the 30th of November, no other case had been brought into the French court of prizes. From accounts which have lately appeared, it is more than probable that unlawful captures by French cruisers have since taken place; but it remains to be known whether they are to be referred to the concurrence of the French government in the judgment pronounced in the case of the *Horizon*, or not rather to a

French decree of the 17th of December last, professing to be a retaliation on the British orders of November 11.

I state with equal confidence, that at no time have the United States acquiesced in violations of their neutral rights injurious to Great Britain, or any other belligerent nation. So far were they, in particular, from acquiescing in the French decree of November, 1806, that the moment it was known to their minister at Paris, he called for explanations of its meaning in relation to the United States, which were favourable, and uncontradicted by the actual operation of the decree; that he steadily watched over the proceedings under it, with a readiness to interpose against any unlawful extension of them to the commerce of the United States; that no time was lost, after the decree came to the knowledge of the government here, in giving him proper instructions on the subject; that he was equally prompt, on receiving the decision of the court in the case of the *Horizon*, in presenting to the French government a remonstrance in terms which can never be censured for a defect of energy; and that by the first opportunity, after that decision reached the President, the particular instructions required by it were forwarded to that minister. Nor is it to be forgotten, that previous to the British orders of November, it had been explicitly communicated to the British government, by the American minister at London, that explanations, uncontradicted by any overt act, had been given to our minister at Paris, which justified a reliance that the French decree would not be put in force against the United States; and that the communication was repeated to the British government immediately on the publication of those orders.

What more could have been required on the part of the United States, to obviate retaliating pretensions of any sort on the part of Great Britain? Retaliations are measures of rigour in all cases. Where they are to operate through a third and involuntary party, they will never be hastily resorted to, by a magnanimous or a just power; which will always allow to the third party, its right to discuss the merits of the case, and will never permit itself to enforce its measures without affording a reasonable time, for the use of reasonable means, for substituting another remedy. What would be the situation of neutral powers, if the first blow levelled through them by one belligerent against

another, was to leave them no choice but between the retaliating vengeance of the latter, and an instant declaration of war against the former? Reason revolts at this, as the sole alternative. The United States could no more be bound to evade the British orders, by an immediate war with France, than they were bound to atone for the burning of the French ship of war on the shore of North Carolina, by an immediate resort to arms against Great Britain.

With respect to the principle assumed by the British orders, it is perfectly clear, that it could not justify them in the extent given to their operation, if the facts erroneously assumed could have been fully sustained.

Retaliation is a specifick or equivalent return of injury, for injury received; and where it is to operate through the interests of a third party, having no voluntary participation in the injury received, the return ought, as already observed, to be inflicted with the most forbearing hand.

This is the language of common sense, and the clearest equity. As the right to retaliate results merely for the wrong suffered, it cannot, in the nature of things, extend beyond the extent of the suffering. There may often be a difficulty in applying this rule with exactness, and a reasonable latitude may be allowable on that consideration. But a manifest and extravagant departure from the rule can find no apology.

What then is the extent of the injury experienced by Great Britain from the measures of her enemies, so far as the operation of those measures through the United States, can render them in any sense responsible?

A mere declaration by a belligerent, without the intention or the means to carry it into effect against the rights and obligations of a neutral nation, and thence against the interests of another belligerent, could afford no pretext to the latter, to retaliate at the expense of the neutral. The declaration might give just offence to the neutral, but it would belong to him alone to decide on the course prescribed by the respect he owed to himself. No real damage accruing to the belligerent, no indemnity could accrue.

For the same reason, a declaration of a belligerent which he is known to be either not in a situation, or not to intend to carry, but partially, into execution against a neutral, to the injury of another belligerent, could never give more

than a right to a commensurate redress against the neutral. All remaining unexecuted, and evidently not to be executed, is merely ostensible; working no injury to any, unless it be in the disrespect to the neutral, to whom alone it belongs to resent or disregard it.

Bring the case before us to this plain and equitable test. The French decree of November, 1806, undertook to declare the British isles in a state of blockade, to be enforced, if you please, against the neutral commerce of the United States, on the high seas, according to the faculty possessed for the purpose. As far as it was actually enforced, or an effect resulted from an apprehension that it could and would be enforced, it was an injury to Great Britain, for which, let it be supposed, the United States were answerable. On the other hand, as far as it was not enforced, and evidently either would not or could not be enforced, no injury was experienced by Great Britain, and no remedy could lie against the United States.—Now, sir, it never was pretended that, at the date of the first British order, issued in January, 1807, any injury had accrued to, or was apprehended by Great Britain, from an execution of the French decree against the commerce of the United States, on the theatre of their neutral rights: so far from it, that the order stands self condemned as a measure of retaliation, by expressly stating that the fleets of France and her allies, instead of being able to enforce the blockade of the British isles, were themselves confined to their own ports, by the entire superiority of the British navy: converting thus, by the strangest of reasonings, the security of Great Britain against injury from the French decree, into a title to commit injury on a neutral party. In the November orders also, whilst it is admitted that the French decree could not be but imperfectly executed, for want of means, it is asserted that the intention of the French decree, and not the injury accruing from its operation through the commerce of the United States, is the scale by which the retaliating injury against them is to be measured.

Such are the pretexts, and such the principles, on which one great branch of the lawful commerce of this country became a victim to the first British order, and on which the last orders are now sweeping from the ocean all its most valuable remains.

Against such an unprecedented system of warfare on neutral rights, and national independence, the common judgment and common feelings of mankind must for ever protest.

I touch, sir, with reluctance, the question, on which of the belligerent sides the invasion of neutral rights had its origin. As the United States do not acquiesce in these invasions by either, there could be no plea for involving them in the controversy. But as the British orders have made the decree of France, declaring, contrary to the law of nations, the British islands in a state of blockade, the immediate foundation of their destructive warfare on our commerce, it belongs to the subject to remind your government of the illegal interruptions and spoliations suffered, previous to that decree, by the neutral commerce of the United States, under the proceedings of British cruisers and courts, and for the most part, in consequence of express orders of the government itself. Omitting proofs of inferior note, I refer to the extensive aggressions on the trade of the United States, founded on the plea of blockades never legally established according to recognised definitions; to the still more extensive violations of our commerce, with ports of her enemies not pretended to be in a state of blockade; and to the British order of council issued near the commencement of the existing war. This order, besides its general interpolation against the established law of nations, is distinguished by a special ingredient, violating that law as recognised by the course of decisions in the British courts. It subjects to capture and condemnation all neutral vessels, returning with lawful cargoes, on the sole consideration, that they had, in their outward voyage, deposited contraband of war at a hostile port.

If the commerce of the United States could, therefore, in any case, be reasonably made the victim and the sport of mutual charges and reproaches between belligerent parties, with respect to the priority of their aggressions on neutral commerce, Great Britain must look beyond the epoch she has chosen, for illegal acts of her adversary, in support of the allegation on which she founds her retaliating edicts against our commerce.

But the United States are given to understand, that the British government has, as a proof of its indulgent and

amicable disposition towards them, mitigated the authorized rigour it might have given to its measures, by certain exceptions peculiarly favourable to the commercial interests of the United States.

I forbear, sir, to express all the emotions with which such a language, on such an occasion, is calculated to inspire a nation which cannot for a moment be unconscious of its rights, nor mistake, for an alleviation of wrongs, regulations, to admit the validity of which would be to assume badges of humiliation never worn by an independent power.

The first of these indulgences is a commercial intercourse with the dependencies of the enemies of Great Britain, and it is considered as enhanced by its being a deviation in favour of the United States, from the ancient and *established* principle of maritime law, prohibiting altogether such an intercourse in time of war.

Surely, sir, your government, in assuming this principle, in such terms, in relation to the United States, must have forgotten their repeated and formal protests against it, as these are to be found in the discussions and communications of their minister at London, as well as in explanations occasionally made on that subject to the British representative here. But permit me to ask more particularly, how it could have happened, that the principle is characterized as an ancient and established one? I put the question the more freely, because it has never been denied that the principle, as asserted by your government, was for the first time introduced during the war of 1750. It is, in fact, invariably cited and described, in all judicial and other official transactions, "as the rule of 1750." It can have no pretension, therefore, to the title of an *ancient* rule.

And instead of being an *established* rule or principle, it is well known that Great Britain is the only nation that has acted upon, or otherwise given a sanction to it. Nay, it is not even an established principle in the practice of Great Britain herself. When first applied in the war of 1756, the legality of a neutral trade with enemies' colonies was not contested by it. In certain cases only of the colonial trade the allegation was, that the presumptive evidence arising from circumstances, against the bona fide neutrality of the ownership, justified the condemnation as of enemy's property. If the rule of condemnation was

afterwards, during that war, converted into the principle now asserted, it could not possibly have been in operation, in its new shape, more than a very few years. During the succeeding war of 1778, it is admitted by every British authority, that the principle was never brought into operation. It may be regarded, in fact, as having been silently abandoned. And within the period of war, since its commencement in 1793, the manner in which the principle has been alternately contracted and extended, explained sometimes in one way, sometimes in another, rested now on this foundation, now on that, is no secret to those who have attended to its history and progress in the British orders of council, and the British courts of admiralty.

With the exception, therefore, of a period, the last in modern times from which authentick precedents of maritime law will be drawn, and throughout which the United States, more interested in the question than any other nation, have uniformly combated the innovation, the principle has not in the British tribunals been in operation for a longer term than three, four, or five years, whilst in no others has it ever made its appearance but to receive a decision protesting against it.

Such is the antiquity, and such the authority of a principle, the deviations from which are held out as so many favours consoling the United States for the wide spread destruction of their legitimate commerce.

What must be said as to the other exceptions which seem to have been viewed as claims on the gratitude of the United States? Is it an indulgence to them in carrying on their trade with the whole continent of Europe, to be laid under the necessity of going first to a British port, to accept a British license, and to pay a tribute to the British exchequer, as if we had been reduced to the colonial situation which once imposed these monopolising restraints?

What again must be said as to the other features which we see blended on the face of these regulations? If the policy of them be to subject an enemy to privations, why are channels opened for a British trade with them which are shut to a neutral trade? If, in other cases, the real object be to admit a neutral trade with the enemy, why is it required that neutral vessels shall perform the cere-

mony of passing through a British port, when it can have no imaginable effect but the known and inevitable one of prohibiting the admission of the trade into the port of destination?

I will not ask why a primary article of our productions and exports, cotton wool, is to be distinguished, in its transit, by a heavy impost, not imposed on other articles, because it is frankly avowed, in your explanation of the orders, to be intended as an encouragement to British manufactures, and a check to the rival ones of France. I suppress, also, though without the same reason for it, the inquiry, why less rigorous restrictions are applied to the trade of the Barbary powers, than are enforced against that of a nation, such as the United States, and in relations, such as have existed between them and Great Britain.

I cannot, however, pass without notice the very unwarrantable innovations contained in the two last of the orders. In one of them, a certificate of the local origin of a cargo, although permitted in the port of departure, and required in the port of destination, by regulations purely domestick in both, and strictly analogous in principle to regulations in the commercial code of Great Britain, is made a cause of capture on the high seas, and of condemnation in her maritime courts. In the other order, the sale of a merchant ship, by a belligerent owner to a neutral, although a transaction as legal, when fair, as a dealing in any other article, is condemned by a general rule, without an atom of proof, or of presumption, that the transfer in the particular case, is fraudulent, and the property, therefore, left in an enemy.

In fine, sir, the President sees in the edicts communicated by you, facts assumed which did not exist; principles asserted which never can be admitted; and, under the name of retaliation, measures transcending the limits reconcileable with the facts and the principles, as if both were as correct as they are unfounded. He sees, moreover, in the modifications of this system, regulations, violating equally our neutral rights and our national sovereignty. He persuades himself, therefore, that your government will see, in the justice of the observations now made, in addition to those I had the honour, verbally, to state to you in the first instance, that the United States are well warranted in looking for a speedy revocation

of a system, which is every day augmenting the mass of injury for which the United States have the best of claims to redress.

I have the honour to be, &c.

JAMES MADISON.

The Hon. David M. Erskine, &c. &c.

*From Mr. Madison to Mr. Erskine. Department of State,
March 29, 1807.*

SIR,—Further reflection on the tenour and tendency of the order of his Britannick majesty, communicated by your letter of the 12th instant, which was answered by mine of the 20th, induces me to resume that important subject.

From the difficulty of supposing that the order can have for its basis, either a legal blockade impossible to be extended to all the ports described in the order, or a supposed illegality of the trade between those ports, an illegality which has never been applied by the British government or its admiralty courts to an *accustomed* trade, even between the ports of the same belligerent nation, and is utterly at variance with the conduct of both in reference to a trade between a belligerent nation and its allies; a necessity seems to result of ascribing the order to the policy of countervailing, through the commerce of neutrals, the French decree of the 21st of November last.

In this view of the order, it demands, on the part of the United States, the most serious attention both to its principle and to its operation.

With respect to its *principle*, it will not be contested that a retaliation by one nation on its enemy, which is to operate through the interest of a nation not an enemy, essentially requires not only that the injury inflicted should be limited by the measure of injury sustained, but that every retaliating step, in such a case, should be preceded by an unreasonable failure of the neutral party to put an end, in some mode or other, to the inequality wrongfully produced.

Were it certain, therefore, that the French decree is to be enforced in the sense in which it is taken, and that in violation of the treaty between France and the United

States, the commerce of the latter will not be exempted ; the British order being peremptory in its import, and immediate in its execution, might justly be regarded by the United States, as a proceeding equally premature and unfriendly.

But in the uncertainty as to the real meaning of that decree, and whilst a presumption offered itself, that the decree, if avowed and executed in an unlawful extent, might not embrace the commerce of the United States, they are bound by justice to their interests, as well as by respect for their rights, to consider the British order as a ground for serious complaint and remonstrance.

Should it prove that the decree had not the meaning ascribed to it, and particularly, should the respect of France for her treaties with the United States exempt their trade from the operation of the decree, the order of the British government will stand exposed to still severer comments. It will take the character of an original aggression, will furnish the French government, a like ground with that assumed by itself, for retaliating measures, and will derive a very unfavourable feature from the consideration, that it was a palpable infraction of a treaty just signed on the part of the British government, and expected, at the date of the order, to be speedily ratified on the part of the United States.

The necessity of presenting the subject in its true light, is strengthened by the *operation* which the British order will have on a vast proportion of the entire commerce of the United States. Not to dwell on the carrying branch of the commerce between the ports and countries of Europe, and which the immunity given by our flag in consequence of treaties with the enemies of Great Britain, to British property, and not enjoyed by the property of her enemies, has hitherto been advantageous to Great Britain ; and without inquiring into the effect of an application of the interdict, to the other quarters of the globe, all of which are evidently within the comprehensive terms of the order, it cannot be overlooked, that the character and course of nearly the whole of the American commerce with the ports of Europe, other than of Great Britain, will fall under the destructive operation of the order. It is well known that the cargoes exported from the United States frequently require that they be disposed of, partly at one market, and

partly at another. The return cargoes are still more frequently collected at different ports ; and not unfrequently, at ports different from those receiving the outward cargoes. In this circuitous voyage, generally consisting of several links, the interest of the undertakers materially requires also either a trade or a freightage between the ports visited in the circuit. To restrain the vessels of the United States, therefore, from this legitimate and customary mode of trading with the continent of Europe, as is contemplated by the order, and to compel them on one hand to dispose of the whole of their cargoes at a port which may want but a part, and, on the other hand, to seek the whole of their returns at the same port, which may furnish but a part or perhaps no part of the articles wanted, would be a proceeding as ruinous to our commerce, as contrary to our essential rights.

These observations, which are made in conformity with the sentiments of the President, cannot fail, sir, to have all the weight with an enlightened and friendly government, to which they are entitled ; and the President persuades himself, that the good effect of the truths which they disclose, will be seen in such measures as will remove all ground for dissatisfaction, and demonstrate, on that side, the same sincere disposition to cultivate harmony and beneficial intercourse, as is felt and evinced by the United States and their government.

I have the honour to be, &c.

JAMES MADISON.

The Hon. David M. Erskine, Esq.

FOURTH COPY.

Colonel Lear, to the Secretary of State. Algiers, March 28, 1808.

SIR,—I have the honour to enclose a triplicate of my respects to you of the 4th of January, and duplicates of that of the 9th instant, and the schedule of my account with the United States. Since forwarding the first of these, I have heard nothing respecting the United States, excepting by a letter from Mr. Montgomery, our consul in Alicante, that an embargo had been laid on all vessels in the ports of the United States.

It is with regret I have to inform you, that our affairs here wear a different aspect from what they did when I had last the honour of writing to you. On the 16th instant, the dey sent me a message by my drogerman, that I should pay immediately sixteen thousand dollars for eight of the subjects of his regency, said to have been destroyed on board the American schooner *Mary Ann*, captured some time since, by one of his frigates, as mentioned in my former letters. I returned for answer, that I had not yet received any authentick advices of this business, and could therefore say nothing about it. The dey then sent me word, that he would wait the arrival of the courier from Alicante, by which I might receive some information.

But on the 24th, (the courier not having yet arrived) the drogerman informed me, that the dey had sent for him, and ordered him to tell me, that if I did not pay the money before night, I should be sent to prison in chains. I ordered him to return immediately to the dey, and say that I could not pay the money, without the order of my government, as it was an affair out of the usual course of our business here, and that I was ready to meet the event. He brought me word, that the dey would see me the next day at noon, on the subject.

He accordingly sent for me at noon on the 25th. When I entered the palace, I met Mr. Ulrick, the Danish consul, who was descending from an audience of the dey. He was seized by a Chaoux, who carried him through the streets, in the most indignant manner, to the slave prison, where he was loaded with an enormous chain; the reason assigned for which was, that he had been called upon for his bien-nial presents, which he declared he could not make, without having time given him, as the vessel containing it, and annuities for the regency, had been taken by the English. On meeting the dey, he demanded from me immediate payment for the persons before mentioned, together with an additional two thousand dollars for the boy said to have been carried in the schooner to Naples. I told him, with firmness, that I could not pay it without the orders of my government, as it was an extraordinary case, and requested time to write and receive an answer; but was answered, that if it was not paid immediately, I knew what the consequence would be. I replied, that let the consequence be what it might, I should not pay it. I was then ordered

to leave his presence. On descending to the area of the palace, where the Danish consul had been seized, I expected the same compliment which he had met with, and was *prepared* for it; but finding no one to molest me, I left the palace and returned to my own home, where I supposed the orders would be sent to have me arrested; but the day passed without my hearing any thing more of the matter. In the evening I met the French and Swedish consuls (the others being at their gardens) and we agreed to send for the other consuls the following morning, to concert measures for the liberation of the Dane. At noon we met at the Danish consul's house, with our respective droghermen, and proceeded to the palace, where we had an audience of the dey; who, after some conversation, agreed to release the Danish consul from his chains, at the intercession made for him. From thence we went to the marine (where the consul had been sent to work with the *other* slaves, carrying a chain of 40lbs. weight) to receive and conduct him to his house.

While we were with the dey on the business before mentioned, he asked me, in presence of the consuls, if I did not intend to pay the money. I answered him as I had done the day before; to which he made the same reply; and I remain in daily expectation of experiencing the effects of this refusal; which is dictated by a sense of duty, and a conviction that the honour of my country demands such conduct from me. I make no comments on the unpleasantness of my situation. My government and my country will consider it, and do what is right respecting it.

As it is very likely that the cruisers which are now fitting out will have orders to capture American vessels, I have written to our consul in Alicante by this opportunity, which is unexpected, and the only one likely to occur soon, to convey notice to all the consuls of the United States in this sea to guard our merchant vessels against the evil which may occur. A copy of my letter to him I have now the honour to enclose. In consequence of the barbarous outrage which has been committed on the Danish consul, and threatened to be put in execution against me, the consuls have been brought to reflect on their precarious situation here; and I trust, that in a few days, there will be a compact entered into among us, that we will use our best endeavours to enforce that article, which exists in all the

treaties between this regency and christian powers, securing the person and family of the consuls from violence and outrage, in consequence of any thing he may do in the exercise of his official functions; and I hope each one will bind himself not to do any act as a publick agent, while any one is held in, or threatened with, durance vile....Our respective governments, I trust, will sanction such a measure, and give orders to their consuls accordingly.

Notwithstanding all I have stated, it is *possible* that the dey may not proceed to extremities towards me, or commit hostilities on our commerce and citizens, until I hear from my government on the subject....But I have thought it my duty to guard as much as possible against the evil, by giving notice to our vessels which may be in this sea, as well as those in the Atlantick; for, at present, there is nothing to prevent their cruisers from passing the straits.

The camp is expected to march in a few days against Tunis, and their cruisers are *said* to be intended for that quarter; but there is no doubt but some of them will cruise in every part of this sea, and probably go into the Atlantick.

With sentiments of the highest respect, and most sincere attachment, I have the honour to be, sir, &c.

TOBIAS LEAR.

The Hon. James Madison, Sec. State
of the U. States of America, Washington.

FOURTH COPY.

Algiers, March 31, 1808.

SIR,—A copy of what I had the honour of writing to you, on the 28th instant, accompanies this, with its enclosures. The vessel which took the aforesaid letter did not sail until the 29th.

Yesterday I sent my drogerman to the palace to know of the dey what were his ultimate intentions (if he chose to declare them) respecting the business mentioned in my last; and to request that I might be allowed three months to receive the orders of my government. The answer brought was, that if I paid the money in the course of the day, we should stand as we were before; but if I did not, he would pursue his own measures. As I was yet uncertain whe-

ther his threats would be put in execution against me personally, or against our commerce, I remained fixed in my first resolution. This morning, the two frigates, which had been preparing for sea for some days past, made the signal for sailing ; and a formal message was sent to inform me that they had orders to capture American vessels. I saw them unmoor ; and as I was now convinced from this, as well as from other indubitable evidence, that they had received orders to capture our vessels, (the threats of personal violence to me having had no effect) I thought it a duty which I owed to my government and to my country, to prevent, if possible, the calamity which might fall on our citizens and their property. I therefore sent to inform the dey, that if he should recall his orders from those vessels before they sailed, and make no renewal of them to these or others, I would pay the money ; but that I considered it as a measure forced upon me, and as such should represent it to my government. The order was recalled after the frigates had got under way, and the money is to be paid to-morrow ; which I shall obtain by bills on Mr. Gavino, our consul in Gibraltar, to whom I shall give bills on the Secretary of State of the United States to meet the same. The frigates have gone out, and the other cruisers will be got ready for sea immediately. A vessel is expected to sail in a few days for Alicante, by which I shall write to our consul contravening the positive advices for our vessels not to leave the ports in which they may be ; but at the same time, directing them to be strictly on their guard.

I have this day had an opportunity of writing to Tripoli (which is the first that has occurred for more than three months) and I have improved it ; and by the same route, to Tunis also, giving information of what has passed.

Painful as has been my situation in this affair, I feel conscious of having discharged my duty to my country in the best and indeed only manner in my power. While I could believe that the consequence of refusing to make this unjust payment would fall upon me personally, I was ready to meet it ; but when I was convinced that my country would suffer in the persons and property of its citizens, I was obliged to yield.

My letters which accompany this, contain all I have to say on our affairs here, and I shall only add the assurances of high respect and sincere attachment with which I have the honour to be, &c.

TOBIAS LEAR.

Hon. James Madison, Sec. of State
of the United States.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE
TO ENGLAND AND FRANCE. NOV. 8, 1808.

[Not to be published.]

REPORT

ON SO MUCH OF THE PRESIDENT'S MESSAGE AS RESPECTS
OUR FOREIGN RELATIONS. NOV. 22, 1808.

THE committee to whom was referred so much of the message of the President of the United States, of the 8th instant, as respects our relations with foreign powers, report, in part :

After a period of twenty-five years of peace, hardly interrupted by transient hostilities, and of prosperity unparalleled in the history of nations ; the United States are, for the first time since the treaty which terminated the revolutionary war, placed in a situation equally difficult, critical and dangerous.

Those principles recognised by the civilized world under the name of law of nations, which heretofore controlled belligerent powers, regulated the duties of neutrals and protected their rights, are now avowedly disregarded or forgotten by Great Britain and France. Each of those two nations, captures and condemns all American vessels

trading with her enemies or her enemies' allies ; and every European power having become a party in the contest, the whole of our commerce with Europe and European colonies, becomes liable to capture by either one or the other. If there be any nominal exception, it is made on a condition of tribute, which only adds insult to the injury.

The only plea urged in justification of those hostilities, is that of retaliation, grounded on a presumed acquiescence of the United States in previous aggressions by the other party. Waving a discussion of the correctness of the principle of retaliation, a principle doubtful in itself, and altogether inadmissible to the extent to which it has been carried, and when operating on the neutral rather than on the enemy ; it is altogether untrue that the United States have ever voluntarily acquiesced in the unlawful aggressions of either nation ; omitted or delayed any measures calculated to obtain redress, or in any respect deviated from that impartiality to which they were bound by their neutrality. France has alluded to the violations of the national flag, and of the sovereignty of the United States, in the instances of Pierce's murder, of the outrage on the Chesapeake, and of the destruction of the *Impetuous*. The measures taken to obtain redress in those cases are of publick notoriety, and it may be added, that with the exception of the last, those aggressions on the sovereignty of the United States, did not affect their neutrality, and gave no right to France either of complaint or interference. Setting aside irregularities of less importance and equally chargeable to both nations, such as the British order of June, 1803, and the decree of the French general Ferrand ; the principal violations by England of the neutral rights of America, prior to the Berlin decree of November, 1806, and which, if acquiesced in, might have given grounds of complaint to France, are the capture of American vessels laden with colonial produce, founded on a renewal of that pretended principle generally called " the rule of 1756," the impressment of American seamen, compelled thereby to become the auxiliaries of England against France, and proclamation or nominal blockades, particularly that of the coast from the river Elbe to Brest, notified in May, 1806.

It will not be asserted, that the United States ever tamely acquiesced in either of those pretensions. It will not

be denied, that with respect to the two first, the most strenuous efforts were incessantly made to procure an alteration of the British system.

It is true, that to the nominal proclamation blockades of England, the United States had opposed only spirited and repeated remonstrances, and that these had not always been successful. But the measures which a neutral nation may be supposed bound to take, against the infractions of its neutrality, must always bear a certain proportion to the extent and nature of the injury received, and to the means of opposition. It cannot certainly be pretended, that a hasty resort to war should in every such instance have become the duty of America. Nor can the irregularities of England, in declaring in a state of blockade a certain extent of coast, part of which was not, and the whole of which could not, even by her powerful navy, be actually invested and blockaded, be plead in justification of that decree, by which France, without an efficient fleet, pretends to announce the blockade of the dominions of a power which has the incontestable command of the sea, and before no port of which she can station a single vessel. The Milan decree of 1807, can still less rest for its defence on the supposed acquiescence of the United States in the British orders of the preceding month, since those orders, which have not certainly been acquiesced in, were not even known in America at the date of the decree. And it is proper here to add, that the French have, particularly by the sequestration of certain vessels in their ports, and by burning our ships on the high seas, gone even beyond the tenour of their own extraordinary edicts.

The allegation of an acquiescence in the Berlin decree of November, 1806, by which alone the British government pretends to justify the orders of council, is equally unfounded. In the note on that subject, addressed on the 31st of December, 1806, by the British government to the American ministers, after having stated that "they could not believe that the enemy would ever seriously attempt to enforce such a system," the following declaration is expressly made, "If, however, the enemy should carry these threats into execution, and if neutral nations, contrary to all expectation, should acquiesce in such usurpations, his majesty might probably be compelled, however reluctantly, to retaliate in his just defence, &c." The two requi-

sites necessary in the opinion of Great Britain to justify retaliation, are stated to be, the execution of the decree, and the acquiescence of neutral nations. Yet, within eight days after, and in the face of that declaration, without waiting for ascertaining either of those facts, the retaliating British order of January 7th, 1807, was issued, which, contrary to the acknowledged law of nations, subjected to capture, vessels of the United States sailing from the ports of one belligerent to a port of *another* belligerent.

The United States in the mean while, and without delay, had taken the necessary steps to ascertain the manner in which the French government intended to execute their decree.

That decree might be construed merely as a municipal law forbidding the introduction of British merchandise, and the admission of vessels coming from England. Under that aspect, and if confined to that object, the neutral rights of America were not affected by its operation.

A belligerent may, without any infraction of neutral rights, forbid the admission into his ports of any vessel coming from the ports of his enemy. And France had undoubtedly the same right to exclude from her dominions every species of British merchandise, which the United States have exercised in forbidding the importation of certain species. Great Britain might be injured by such regulations: But America had no more right to complain of that part of the decree, than France had to object to the American non-importation act. So far indeed as respects the United States, they were placed by the municipal part of the decree in the same situation, in relation to France, in which they are placed in their intercourse with Great Britain by the permanent laws of that country. The French decree forbids American vessels to import British merchandise into France. The British navigation act forbids American vessels to import French merchandise into England. But that broad clause of the Berlin decree which declared the British islands in a state of blockade, though not followed by regulations to that effect, still threatened an intended operation on the high seas. This, if carried into effect, would be a flagrant violation of the neutral rights of the United States, and as such they would be bound to oppose it. The minister of the United States at Paris immediately applied for ex-

planation on that subject ; and the French minister of marine, on the 24th December, 1806, seven days before the date of the above mentioned note of the British government, stated in answer, that the decree made no alteration in the regulations then observed in France with regard to neutral navigation, or to the commercial convention of the United States with France. That the declaration of the British islands being in a state of blockade did not change the existing French laws concerning maritime captures, and that American vessels could not be taken at sea for the mere reason of their being going to, or returning from an English port.

The execution of the decree comported for several months with those explanations : several vessels were arrested for having introduced articles of English growth or manufacture, and among them some which being actually from England, and laden with English colonial produce, had entered with forged papers, as if coming from the United States. But no alteration of the first construction given by the French government took place until the month of September, 1807. The first condemnation on the principle that the decree subjected neutral vessels to capture on the high seas, was that of the *Horizon* on the 10th of October following. Prior to that time there could have been no acquiescence in a decree infringing the neutral rights of the United States ; because till that time it was explained, and what was more important, executed in such manner as not to infringe those rights ; because until then no such infraction had taken place. The ministers of the United States at London, at the request of the British minister, communicated to him on the 18th October, 1807, the substance of the explanations received, and of the manner in which the decree was executed. For they were at that time ignorant of the change which had taken place.

It was on the 18th of September, 1807, that a new construction of the decree took place ; an instruction having on that day been transmitted to the council of prizes by the minister of justice, by which that court was informed, that French armed vessels were authorized, under that decree, to seize without exception, in neutral vessels, either English property, or merchandise of English growth or manufacture. An immediate explanation having been

asked from the French minister of foreign relations, he confirmed, in his answer of the 7th of October, 1807, the determination of his government to adopt that construction. Its first application took place on the 10th of the same month, in the case of the *Horizon*, of which the minister of the United States was not informed until the month of November; and on the twelfth of that month, he presented a spirited remonstrance against that infraction of the neutral rights of the United States. He had, in the meanwhile, transmitted to America the instruction to the council of prizes of the 18th of September. This was received on the of December; and a copy of the decision in the case of the *Horizon*, having at the same time reached government, the President, aware of the consequences which would follow that new state of things, communicated immediately to Congress the alteration of the French decree, and recommended the embargo, which was accordingly laid on the 22d of Dec. 1807; at which time it was well understood, in this country, that the British orders of council, of November preceding, had issued, although they were not officially communicated to our government.

On the 11th of that month those orders did actually issue, declaring that all the ports of France, of her allies, and of any other country at war with England, and all other ports of Europe, from which, although not at war with England, the British flag was excluded, should thenceforth be considered as if the same were actually blockaded; that all trade in articles of the produce or manufactures of the said countries should be deemed unlawful; and that every vessel trading from or to the said countries, together with all goods and merchandise on board, and also all articles of the produce or manufacture of the said countries, should be liable to capture and condemnation.

These orders cannot be defended on the ground of their being intended as retaliating on account of the Berlin decree, as construed, and uniformly executed from its date to the 18th September, 1807, its construction and execution having till then infringed no neutral rights. For certainly the monstrous doctrine will not be asserted even by the British government, that neutral nations are bound to resist, not only the acts of belligerent powers which violate their rights, but also those municipal regulations,

which, however they may injure the enemy, are lawful and do not affect the legitimate rights of the neutral. The only retaliation to be used in such cases, must be such as will operate on the enemy without infringing the rights of the neutral. If solely intended as a retaliation on the Berlin decree, as executed prior to the month of September, the British orders of council should have been confined to forbidding the introduction into Great Britain of French or enemy's merchandise, and the admission into British ports of neutral vessels coming from a French or other enemy's port. Indeed the ground of retaliation on account of any culpable acquiescence of neutrals in decrees violating their rights, is abandoned by the very tenour of the orders; their operation being extended to those countries from which the British flag was excluded, such as Austria, although such countries were neither at war with Great Britain, nor had passed any decree in any way affecting or connected with neutral rights.

Nor are the orders justifiable on the pretence of an acquiescence on the part of the United States, in the French decree as construed and executed subsequent to the 18th September, 1807, when it became an evident infraction of their rights, and such as they were bound to oppose. For their minister at Paris, immediately made the necessary remonstrances; and the orders were issued not only without having ascertained whether the United States would acquiesce in the injurious alteration of the French decree, but more than one month before that alteration was known in America. It may even be asserted that the alteration was not known in England when the orders of council were issued; the instruction of the 18th September, 1807, which gave the new and injurious construction, not having been promulgated in France, and its first publication having been made in December, 1807, and by the American government itself.

The British orders of council are, therefore, unjustifiable on the principle of retaliation, even giving to that principle all the latitude which has ever been avowedly contended for. They are in open violation of the solemn declaration made by the British ministers in December, 1806; that retaliation on the part of Great Britain would depend on the execution of an unlawful decree, and on the acquiescence of neutral nations in such infraction of

their rights. And they were also issued, notwithstanding the official communication made by the ministers of the United States, that the French decree was construed and executed so as not to infringe their neutral rights, and without any previous notice or intimation denying the correctness of that statement.

The Berlin decree, as expounded and executed subsequent to the 18th September, 1807, and the British orders of council of the 11th November ensuing, are therefore, as they affect the United States, co-temporaneous aggressions of the belligerent powers, equally unprovoked and equally indefensible on the presumed ground of acquiescence. These, together with the Milan decree of December, 1807, which filled the measure, would on the principle of self-defence have justified immediate hostilities against both nations on the part of the United States. They thought it more eligible in the first instance by withdrawing their vessels from the ocean, to avoid war, at least, for a season, and at the same time, to snatch their immense and defenceless commerce from impending destruction.

Another appeal has in the meantime been made, under the authority vested in the President for that purpose, to the justice and true interest of France and England. The propositions made by the United States, and the arguments urged by their ministers, are before Congress. By these, the very pretext of the illegal edicts was removed; and it is evident that a revocation, by either nation, on the ground on which it was asked, either must have produced, what both pretended to have in view, a restoration of the freedom of commerce and of the acknowledged principles of the law of nations; or in case of refusal by the other belligerent, would have carried into effect, in the most efficient manner, the ostensible object of the edicts, and made the United States a party in the war against him. The effort has been ineffectual. The propositions have been actually rejected by one of the belligerent powers, and remain unanswered by the other. In that state of things, what course ought the United States to pursue? Your committee can perceive no other alternative but abject and degrading submission—war with both nations—or a continuance and enforcement of the present suspension of commerce.

The first cannot require any discussion. But the pressure of the embargo so sensibly felt, and the calamities inseparable from a state of war, naturally create a wish that some middle course might be discovered, which should avoid the evils of both, and not be inconsistent with national honour and independence. That illusion must be dissipated; and it is necessary that the people of the United States should fully understand the situation in which they are placed.

There is no other alternative but war with both nations, or a continuance of the present system. For war with one of the belligerents only would be submission to the edicts and will of the other; and a repeal in whole or in part of the embargo must necessarily be war or submission.

A general repeal, without arming, would be submission to both nations.

A general repeal and arming of our merchant vessels, would be war with both, and war of the worst kind, suffering the enemies to plunder us without retaliation upon them.

A partial repeal must, from the situation of Europe, necessarily be actual submission to one of the aggressors, and war with the other.

The last position is the only one on which there can be any doubt; and it will be most satisfactorily demonstrated by selecting, amongst the several modifications which might be suggested, that which may on first view appear the least exceptionable; a proposition to repeal the embargo, so far only as relates to those powers which have not passed or do not execute any decrees injurious to the neutral rights of the United States.

It is said that the adoption of that proposition would restore our commerce with the native powers of Asia and Africa, and with Spain, Portugal, Sweden, and Russia. Let this be taken for granted, although the precise line of conduct now pursued by most of those nations, in relation to the United States, is not correctly ascertained. So far as relates to any advantages which would result from that measure, if confined to its ostensible object, it will be sufficient to observe that the exports of articles of the domestic produce of the United States, during the year ending the 30th September, 1807, amounted to \$48,700,000, and that the portion exported to the countries above enumerated

ed, falls short of \$7,000,000 ; an amount too inconsiderable, when compared with the bulk of our exports, to deserve attention, even if a question affecting the independence of the nation was to be decided by considerations of immediate profit.

But the true effect of the proposition would be to open an indirect trade with Great Britain, which, through St. Bartholomew and Havana, Lisbon, Cadiz or Gottenburg, would receive, at prices reduced by glutted markets, and for want of competition, all the provisions, naval stores, raw materials for her manufactures, and other articles which she may want. Whether she would be satisfied with that favourable state of things, or whether, considering that boon as a pledge of unqualified submission, she would, according to the tenour of her orders, interrupt our scanty commerce with Russia and occasionally, under some new pretext, capture rather than purchase the cargoes intended for her own use, is equally uncertain and unimportant. Nor can it be doubted that a measure which would supply exclusively one of the belligerents, would be war with the other. Considered merely as a question of profit, it would be much more eligible at once to raise the embargo in relation to Great Britain, as we would then, at least, have the advantages of a direct market with the consumer. But the proposition can only be defended on the ground that France is the only aggressor, and, that having no just reason to complain of England, it is our duty to submit to her orders. On that inadmissible supposition, it would not only be more candid, but also a more dignified, as well as more advantageous course, openly to join England, and to make war against France. The object would be clearly understood, an ally would be obtained, and the meanness of submission might be better palliated.

It appears unnecessary to pursue any further the examination of propositions, which the difficult situation of the United States could alone have suggested, and which will prove more inadmissible, or impracticable, as the subject is more thoroughly investigated. The alternative is painful ; it is between a continued suspension of commerce, and war with both England and France. But the choice must ultimately be made between the two ; and it is important that we should be prepared for either the one or the other.

The aggressions of England and France collectively, affecting almost the whole of our commerce, and persisted in, notwithstanding repeated remonstrances, explanations, and propositions the most candid and unexceptionable, are to all intents and purposes, a maritime war waged by both nations against the United States. It cannot be denied, that the ultimate and only effectual mode of resisting that warfare, if persisted in, is war. A permanent suspension of commerce, after repeated and unavailing efforts to obtain peace, would not properly be resistance: it would be withdrawing from the contest, and abandoning our indisputable right freely to navigate the ocean. The present unsettled state of the world, the extraordinary situation in which the United States are placed, and the necessity, if war be resorted to, of making it at the same time against both nations, and these the two most powerful of the world, are the principal causes of hesitation. There would be none in resorting to that remedy, however calamitous, if a selection could be made on any principle of justice, or without a sacrifice of national independence.

On a question of such difficulty, involving the most important interests of the Union, and which has not, perhaps, until lately, been sufficiently considered, your committee think the house alone competent to pronounce a decisive opinion: and they have, in this report, confined themselves to an exposition of the subject, and to such introductory resolutions, as will be equally applicable to either alternative. The first of these, being merely declaratory of a determination not to submit to foreign aggressions, may perhaps, at a first view, appear superfluous. It is, however, believed by the committee, that a pledge, by the representatives of the nation, that they will not abandon its essential rights, will not, at this critical moment, be unacceptable. The misapprehensions which seem to have existed, and the misrepresentations which have been circulated, respecting the state of our foreign relations, render also such declaration expedient. And it may not be useless that every foreign nation should understand, that its aggressions never will be justified or encouraged by any description of American citizens. For the question for every citizen now is, whether he will rally round

the government of his choice, or enlist under foreign banners? Whether he will be for his country, or against his country?

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. DECEMBER 23, 1808.

ACCORDING to the request of the House of Representatives, in their resolution of November 11, that copies should be laid before them of all acts, decrees, orders, and proclamations, affecting the commercial rights of neutral nations, issued or enacted by Great Britain and France, or any other belligerent power, since the year 1791, and also of an act placing the commerce of America, in English ports, upon the footing of the most favoured nation, I now transmit them a report of the Secretary of State, of such of them as have been attainable in the department of state, and are supposed to have entered into the views of the House of Representatives.

TH: JEFFERSON.

Department of State, Dec. 21, 1808.

THE Secretary of State, in pursuance of the resolution of the House of Representatives of the 11th of November, respectfully reports to the President of the United States, a copy of an act of the British parliament regulating the trade between the United States and Great Britain, and also copies of such belligerent acts, decrees, orders, and proclamations, as affect neutral rights of commerce, and as have been attainable in the department of state; with the exception, however, of sundry acts, particularly blockades of doubtful import or inferior importance, which it was supposed would have inconveniently extended the delay and the size of the report.

JAMES MADISON.

BRITISH ORDERS IN COUNCIL, &c. &c.

1793. March 25. Extract from the Russian treaty.
 May 25. do. - Spanish.
 July 14. do. - Prussian.
 Aug. 30. do. - Austrian.
 June 8. Additional instructions, with respect to
 corn, meal, &c. &c.
 Nov. 6. do. Detention of neutral vessels laden
 with goods the produce of French colonies, &c.
1794. Jan. 3. Revocation of the last order, and the
 enactment of other regulations.
1798. Jan. 25. Revocation of the last order, and the
 enactment of new regulations.
1799. March 22. Blockade of all the ports of Holland.
 Nov. 27. Suspension of the blockade of Holland.
1803. June 24. Direct trade between neutrals and the
 colonies of enemies not to be interrupted, unless
 upon the outward voyage contraband supplies
 shall have been furnished by the neutrals.
1804. April 12. Instructions concerning blockades, com-
 municated by Mr. Merry.
 Conversion of the seige of Curracoa into a blockade.
 Aug. 9. Blockade of Fecamp, &c. &c.
1805. 17. Direct trade with enemies' colonies sub-
 jected to restrictions.
1806. April 8. Blockade of the Ems, Weser, &c. &c.
 May 16. Ditto from the Elbe to Brest.
 Sept. 25. Discontinuance of the last blockade in
 part.
1807. March 12. Interdiction of the trade from port to
 port, of France.
 June 26. Blockade of the Ems, &c. &c.
 Oct. 16. Proclamation recalling seamen.
 Nov. 11. Three orders in council.
 25. Six do. do.
1808. Jan. 8. Blockade of Carthagena, &c. &c.
 March 28. Act of Parliament.
 April 11. Orders encouraging our citizens to vio-
 late the embargo.

April 14. Act of Parliament to prohibit the exportation of cotton wool, &c. &c.

Act of Parliament making valid certain orders in council, &c. &c.

May 4. Blockade of Copenhagen and the island of Zealand.

June 23. Act of Parliament, regulating trade between the United States and Great Britain.

Oct. 14. Adm. Cockrane's blockade of the French Leeward Islands.

LIST OF FRENCH DECREES.

9th May, 1793, Authorizes French vessels to arrest and bring into the ports of the Republick, vessels laden with provisions destined for an enemy port.

23d May, 1793, Exempts American vessels from the operation of the decree of the 9th.

28th May, 1793, Suspends the decree of 23d May.

1st July, 1793. The decree of 23d again enforced.

27th July, 1793. The decree of 23d May repealed, and that of 9th May enforced.

25th Brumaire 3d year. (18th November, 1794.) General regulations, the most important is, that merchandise belonging to the enemy is made liable to seizure in neutral vessels until the enemy shall exempt from seizure French merchandise similarly situated.

14th Nivose 3d year. (3d January, 1795.) Repeals the 5th article of the above, and exempts enemy goods from capture in neutral vessels.

14th Messidor 4th year. (2d July, 1796.) The French will treat neutral nations, as they suffer themselves to be treated by the English.

17th Ventose 5th year. (2d March, 1797.) Enemy's property in neutral vessels liable to confiscation, makes necessary rôle d'équipages.

29th Nivose 6th year. (18th January, 1798.) The character of vessels to be determined by that of their cargoes.

28th Ventose 7th year (18th March, 1799.) Explains the 4th article of the decree of 2d March, 1797.

- 8th Brumaire 7th year. (29th October, 1799.) Neutrals found on board enemy vessels liable to be treated as pirates.
- 24th Brumaire 7th year. (14th November, 1799.) Suspends the operation of the above decree of the 29th October.
- 23d Frimaire 8th year. (13th December, 1800.) Repeals the 1st article of the law of the 29th Nivose, 6th year. (18th January, 1798.)
- 29th Frimaire 8th year. (19th December, 1800.) Enforces the regulations of 26th July, 1778.
- 21st November, 1806. Berlin decree.
- 17th December, 1807. Milan decree.
- 17th April, 1808. Bayonne decree.

List of Decrees of the French Agents in the West Indies, sent to the President December 22, 1808.

1. 1st August, 1797. Making horses contraband.
2. 1st February, 1797. Authorizes the capture of neutral vessels bound to certain West India Islands.
3. 27th November, 1797. Authorizes the capture of American vessels going to or coming from English ports.
4. 5th February, 1805. Declares that all persons found on board vessels bound to or coming from any ports in Hispaniola, in the possession of the rebels, shall suffer death.

SPANISH DECREES.

1. 15th February, 1800. Blockade of Gibraltar.
2. 18th February, 1807. In imitation of Berlin decree.
3. 3d January, 1808. In imitation of Milan decree.

BRITISH ORDERS, BLOCKADES, &c.

Extract from a Convention between his Britannick Majesty and the Empress of Russia, signed at London the 25th of March, 1793.

“ART. III. Their said majesties reciprocally engage to shut all their ports against French ships, not to permit the

exportation, in any case, from their said ports for France, of any military or naval stores, or corn, grain, salt meat or other provisions ; and to take all other measures in their power for injuring the commerce of France, and for bringing her, by such means, to just conditions of peace.

“ART. IV. Their majesties engage to unite all their efforts to prevent other powers, not implicated in this war, from giving, on this occasion of common concern to every civilized state, any protection whatever, directly or indirectly, in consequence of their neutrality, to the commerce or property of the French, on the sea, or in the ports of France.”

Extract from a Treaty between his Britannick Majesty and the King of Spain, signed at Aranjuez, the 25th May, 1793.

“ART. IV. Their said majesties engage reciprocally to shut their ports against French vessels ; not to permit that there shall in any case be exported from their ports for France either warlike or naval stores, or wheat or other grains, salted meat or other provisions ; and to take every other measure in their power to distress the trade of France, and reduce her by that means to just conditions of peace.

“ART. V. Their said majesties also engage, the present war being generally interesting to every civilized state, to unite all their efforts, in order to prevent those powers, which do not take part in the said war, from affording in consequence of their neutrality, any protection, direct or indirect, on the seas or in the ports of France, to the commerce and property of the French.”

Extract from a Convention between his Britannick Majesty and the King of Prussia, signed at the Camp before Mayence the 14th July, 1793.

“ART. III. The high contracting parties having already taken the resolution to shut all their ports against French ships, and not to permit the exportation, in any cases, from their said ports for France, of any military or naval stores, or corn, grain, salt meat or other provisions, they reciprocally engage to continue those measures, and pro-

mise to employ all other means which shall be in their power for injuring the commerce of France, and for bringing her, by such means, to just conditions of peace.

“ART. IV. Their majesties engage to unite all their efforts to prevent, on this occasion of common concern to every civilized state, other powers not implicated in the war, from giving, in consequence of their neutrality, any protection whatever, directly or indirectly, to the commerce or property of the French, on the sea, or in the ports of France.”

Extract from a Convention between the Emperor of Austria and his Britannick Majesty, signed at London the 30th August, 1793.

“ART. II. Their said majesties reciprocally engage to shut their ports against French vessels, not to permit, in any instance, warlike or naval stores, corn, grain, salted meat, or other provisions, to be exported from their said ports for France, and to take all other means in their power to annoy the commerce of France, and thereby to reduce her to just conditions of peace.

“ART. III. Their majesties engage to unite all their efforts to prevent other powers, who shall not take part in this war, from giving, on this occasion of common interest to every civilized state, any protection whatever, direct or indirect, in consequence of their neutrality, to the commerce or to the property of the French, at sea, or in the ports of France.”

GEORGE, REX.

ADDITIONAL INSTRUCTIONS

To the Commanders of his Majesty's Ships of War and Privateers that have or may have Letters of Marque against France. Given at our Court at St. James, the eighth Day of June, 1793, and in the thirty-third Year of our Reign.

1st. THAT it shall be lawful to stop and detain all vessels laden wholly or in part with corn, flour, or meal, bound

to any port in France, or any port occupied by the armies of France, and to send them to such ports as shall be most convenient, in order that such corn, meal, or flour, may be purchased on behalf of his majesty's government, and the ships be released after such purchase, and after a due allowance for freight, or that the masters of such ships, on giving due security, to be approved of by the court of admiralty, be permitted to proceed to dispose of their cargoes of corn, meal, or flour, in the ports of any country in amity with his majesty.

2d. That it shall be lawful for the commanders of his majesty's ships of war and privateers, that have, or may have letters of marque against France, to seize all ships, whatever be their cargoes, that shall be found attempting to enter any blockaded port, and to send the same for condemnation, together with their cargoes, except the ships of Denmark and Sweden, which shall be prevented from entering on the first attempt, but on the second shall be sent in for condemnation likewise.

3d. That in case his majesty shall declare any port to be blockaded, the commanders of his majesty's ships of war and privateers that have or may have letters of marque against France, are hereby enjoined, if they meet with ships at sea, which appear from their papers to be destined to such blockaded port, but to have sailed from the ports of their respective countries before the declaration of the blockade shall have arrived there, to advertise them thereof, and to admonish them to go to other ports; but they are not to molest them afterwards, unless it shall appear that they have continued their course with intent to enter the blockaded port, in which case they shall be subject to capture and condemnation: as shall likewise all ships wheresoever found, that shall appear to have sailed from their ports, bound to any port, which his majesty shall have declared to be blockaded, after such declaration shall have been known in the country from which they sailed; and all ships which in the course of the voyage shall have received notice of the blockade in any manner, and yet shall have pursued their course with intent to enter the same.

G. R. [L. s.]

ADDITIONAL INSTRUCTION

To the Commanders of all our Ships of War and Privateers that have or may have Letters of Marque against France. Given at our Court at St. James, the sixth Day of November, 1793, and in the thirty-fourth Year of our Reign.

THAT they shall stop and detain all ships laden with goods, the produce of any colony belonging to France, or carrying provisions or other supplies, for the use of any such colony, and shall bring the same with their cargoes to legal adjudication in our courts of admiralty.

By His Majesty's Command,

H. DUNDAS.

G. R.

INSTRUCTIONS

To the Commanders of our Ships of War and Privateers that have or may have Letters of Marque against France. Given at our Court at St. James, the 8th Day of January, 1794.

WHEREAS by our former instruction to the commanders of our ships of war and of privateers, dated the 6th day of November, 1793, we signified that they should stop and detain all ships laden with goods, the produce of any colony belonging to France, or carrying provisions or other supplies for the use of any such colony, and should bring the same with their cargoes to legal adjudication. We are pleased to revoke the said instruction, and in lieu thereof, we have thought fit to issue these our instructions, to be duly observed by the commanders of all our ships of war and privateers, that have or may have letters of marque against France.

1. That they shall bring in for lawful adjudication all vessels with their cargoes, that are laden with goods the produce of the French West India Islands, and coming

directly from any port of the said islands to any port in Europe.

2. That they shall bring in for lawful adjudication all ships with their cargoes, that are laden with goods the produce of the said islands, the property of which goods shall belong to subjects of France, to whatsoever ports the same may be bound.

3. That they shall seize all ships that shall be found attempting to enter any port of the said islands, that is, or shall be blockaded by the arms of his majesty or his allies; and shall send them in with their cargoes for adjudication, according to the terms of the second article of the former instructions, bearing date the 8th day of June, 1793.

4. That they shall seize all vessels, laden wholly or in part with naval or military stores, bound to any port of the said islands, and shall send them into some convenient port belonging to his majesty, in order that they, together with their cargoes, may be proceeded against, according to the rules of nations.

G. R. [L. s.]

INSTRUCTIONS

To the Commanders of our Ships of War and Privateers, that have, or may have Letters of Marque against France, Spain, or the United Provinces. Given at our Court of St. James, the 25th Day of January, 1793, in the 38th Year of our Reign.

WHEREAS by our former instructions to the commanders of our ships of war and privateers, dated 8th January, 1794, we signified that they should bring in for lawful adjudication all vessels, with their cargoes, that were laden with goods, the produce of the *French West India Islands*, and coming directly from any port of the said islands, to any port in Europe; and likewise all ships, with their cargoes, that were laden with goods, the produce of the said islands, the property of which goods should belong to subjects of *France*, to whatsoever ports the same might be bound; and that they should seize all ships that should be found attempting to enter any port of the said islands, that was or should be blockaded by the arms of his majesty,

or his allies, and should send them in, with their cargoes, for adjudication ; and also all vessels laden wholly, or in part, with naval or military stores, bound to any port of the said islands, and should send them into some convenient port belonging to his majesty, in order that they, together with their cargoes, might be proceeded against according to the law of nations : and whereas, in consideration of the present state of the commerce of this country, as well as of that of neutral countries, it is expedient to revoke the said instructions, we are pleased hereby to revoke the same ; and in lieu thereof, we have thought fit to issue these our instructions, to be observed from henceforth by the commanders of all our ships of war and privateers, that have or may have letters of marque against *France*, *Spain*, and the *United Provinces*.

1. That they shall bring in for lawful adjudication all vessels, with their cargoes, that are laden with goods, the produce of any island or settlement belonging to *France*, *Spain*, or the *United Provinces*, and coming directly from any port of the said islands or settlements to any port in Europe, not being a port of this kingdom, nor a port of that country to which such ships, being neutral ships, shall belong.

2. That they shall bring in for lawful adjudication all ships, with their cargoes, that are laden with goods, the produce of the said islands or settlements, the property of which goods shall belong to subjects of *France*, *Spain*, or the *United Provinces*, to whatsoever ports the same may be bound.

3. That they shall seize all ships that shall be found attempting to enter any port of the said islands or settlements, that is or shall be blockaded by the arms of his majesty, and shall send them in, with their cargoes, for adjudication, according to the terms of the second article of the former instructions, bearing date the 8th day of June, 1793.

4. That they shall seize all vessels laden, wholly or in part, with naval or military stores, bound to any port of the said islands or settlements, and shall send them into some convenient port belonging to his majesty, in order that they, together with their cargoes, may be proceeded against according to the rules of the law of nations.

By His Majesty's Command,

PORTLAND;

*Lord Grenville to Mr. King. Downing Street, March 22,
1799.*

THE undersigned, secretary of state of his Britannick majesty, has received his majesty's commands to acquaint Mr. King, minister plenipotentiary of the United States of America, that the king, judging it expedient to avail himself of the superiority of his naval forces for the defence of his dominions, has signified his commands to the lords commissioners of the admiralty to cause the most rigorous blockade to be established at the entrance of all the ports of Holland, which will be maintained and enforced in the strictest manner, according to the usages of war, acknowledged and observed in similar cases.

Mr. King is therefore requested to apprise the American consuls and merchants residing in England, that the above mentioned ports of the United Provinces are, and must be considered as being in a state of blockade, and that from this time no neutral vessel can be suffered to enter them upon any consideration, or under any pretence whatsoever; and that all the measures authorized by the law of nations, and the respective treaties between his majesty and the different neutral powers, will henceforth be adopted and executed, with respect to vessels destined for the said ports, or such as shall attempt to enter them after this notice.

Lord Grenville to Mr. King.

THE undersigned secretary of state has received his majesty's command to inform Mr. King, that his majesty has judged it expedient to suspend for the present the blockade of all the ports in the United Provinces, which was established by his majesty's orders, and which was announced to Mr. King, by the undersigned, in his note dated March 22.

GRENVILLE.

Supposed to be November 27, 1799.

ADDITIONAL INSTRUCTIONS

By the Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, &c.

THE right honourable lord Pelham, one of his majesty's principal secretaries of state, having transmitted us, as additional instructions, under his majesty's signet and sign manual, dated the 24th June, 1803, as follows :

To the Commanders of His Majesty's Ships of War and Privateers.

IN consideration of the present state of commerce, we are pleased hereby to direct the commanders of our ships of war and privateers not to seize any neutral vessel which shall be carrying on trade directly between the colonies of enemies, and the neutral country, to which the vessel belongs, and laden with the property of inhabitants of such neutral country : provided, that such neutral vessels shall not be supplying, nor shall have on the outward voyage supplied, the enemy with any articles contraband of war, and shall not be trading with any blockaded port.

By His Majesty's Command,

PELHAM.

We send you herewith a printed copy of the said additional instructions for your information and guidance, dated 13th July, 1803.

[Signed by the lords of the admiralty.]

To the Judge of the Vice Admiralty
Court of the Island of Ceylon.

Mr. Merry to Mr. Madison. Washington, April 12, 1804.

SIR,—Mr. Thornton not having failed to transmit to his majesty's government an account of the representation which you were pleased to address to him, under date of the 27th October last year, respecting the blockade of the islands of Martinique and Guadaloupe, it is with great satisfaction, sir, that I have just received his majesty's

commands signified to me by his principal secretary of state for foreign affairs, under date of the 6th January last, to communicate to you the instructions which have, in consequence of your representation, been sent to commodore Hood, and to the judges of the vice admiralty courts in the West Indies.

I have, accordingly, the honour to transmit to you, sir, enclosed, the copy of a letter from sir Evan Nepean, secretary to the board of admiralty, to Mr. Hammond, his majesty's under secretary of state for foreign affairs, specifying the nature of the instructions which have been given.

His majesty's government doubt not that the promptitude, which has been manifested in redressing the grievance complained of by the government of the United States, will be considered by the latter as an additional evidence of his majesty's constant and sincere desire to remove any ground of misunderstanding that could have a tendency to interrupt the harmony which so happily subsists between this government and that of the United States.

I have the honour to be, &c.

ANTH. MERRY.

Admiralty Office, January 5, 1804.

SIR,—Having communicated to the lords of the admiralty lord Hawkesbury's letters of the 23d ultimo, enclosing the copy of a despatch which his lordship had received from Mr. Thornton, his majesty's charge d'affaires in America, on the subject of the blockade of the islands of Martinique and Guadaloupe, together with the report of the advocate general:

Thereupon, I have their lordship's commands to acquaint you for his lordship's information, that they have sent orders to commodore Hood not to consider any blockade of those islands as existing, unless in respect of particular ports which may be actually invested, and then not to capture vessels bound to such ports unless they shall previously have been warned not to enter them, and that they have also sent the necessary directions on the

subject to the judges of the vice admiralty courts in the West Indies and America.

I am, &c.

EVEAN NEPEAN.

George Hammond, Esq.

Mr. Merry to Mr. Madison. Washington, April 12, 1804.

SIR,—I have the honour to acquaint you that I have just received a letter from rear admiral sir John Duckworth, commander in chief of his majesty's squadron at Jamaica, dated the second of last month, in which he desires me to communicate to the government of the United States, that he has found it expedient for his majesty's service to convert the siege, which he lately attempted, of Curracoa, into a blockade of that island.

I cannot doubt, sir, that this blockade will be conducted conformably to the instructions which, as I have had the honour to acquaint you in another letter of this date, have been recently sent on this subject to the commander in chief of his majesty's forces, and to the judges of the vice admiralty courts, in the West Indies, should the smallness of the island of Curracoa still render necessary any distinction of the investment being confined to particular ports.

I have the honour to be, &c.

ANT. MERRY.

Circular from Lord Harrowby to the Minister of Neutral Nations residing in London, communicated to Colonel Monroe. Downing Street, Aug. 9, 1804.

THE undersigned, his majesty's principal secretary of state for foreign affairs, has received his majesty's commands to acquaint Mr. Monroe, that the king has judged it expedient (for the protection of his subjects and the annoyance of his enemies) to establish the most rigorous blockade at the entrances of the ports of Fecamp, St. Vallery-au-Caux, Dieppe, Treport, the Somme, Etaples, Boulogne, Calais, Gravelines, Dunkirk, Newport, and Ostend, and to maintain and enforce the same in the strictest manner, according to the usages of war acknow-

ledged in similar cases. Mr. Monroe is therefore requested to apprise the American consuls and merchants residing in England, that the entrances of the above mentioned ports are, and must be considered as being in a state of blockade: and that from this time all the measures authorized by the law of nations and the respective treaties between his majesty and the different neutral powers, will be adopted and executed with respect to vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Monroe, &c. &c.

HARROWBY.

GEORGE R.

INSTRUCTION

To our Courts of Admiralty, and to the Commanders of our Ships of War and Privateers. Given at our Court at St. James's, the 17th Day of August, 1805, in the 45th Year of our Reign.

We are pleased hereby to direct the commanders of our ships of war and privateers not to seize any neutral vessel, which shall be carrying on trade directly from the colonies of the enemy to the ports of this kingdom, and laden solely with the property of inhabitants of the neutral country to which the ship belongs; provided such neutral ship has already cleared out, or shall clear out from such colony, prior to the first day of November next, and shall not have supplied the enemy with any articles contraband of war on the outward voyage, and shall not have entered or be coming from any blockaded port. And in case any neutral vessel, trading as aforesaid, hath been, or shall be detained or brought before any of our courts of admiralty, it is our will and pleasure, that such ships, together with their cargoes, be forthwith liberated.

By his majesty's command,

HAWKESBURY.

Mr. Fox to Mr. Monroe. Downing Street, April 8, 1806.

THE undersigned, his majesty's principal secretary of state for foreign affairs, has received his majesty's com-

mands to acquaint Mr. Monroe, that, in consequence of his majesty the king of Prussia having taken possession of various parts of the electorate of Hanover, and other dominions belonging to his majesty, in a forcible and hostile manner; and having also notified, that all British ships shall be excluded from the ports of the Prussian dominions, and from certain other ports in the north of Europe, and not suffered to enter or trade therewith, in violation of the just rights and interests of his majesty, and his dominions, and contrary to the established law and practice of nations in amity with each other; his majesty has judged it expedient to establish the most rigorous blockade at the entrances of the Ems, the Weser, the Elbe and the Trave, and to maintain and enforce the same in the strictest manner, according to the usages of war, acknowledged and allowed in similar cases.

Mr. Monroe is therefore requested to apprise the American consuls and merchants residing in England, that the entrances of the above mentioned rivers are and must be considered as being in a state of blockade; and that from this time all the measures authorized by the law of nations, and the respective treaties between his majesty and the different neutral powers, will be adopted and executed with respect to vessels attempting to violate the said blockades after this notice.

The undersigned requests Mr. Monroe to accept the assurances of his high consideration.

C. J. FOX.

Mr. Fox to Mr. Monroe.

[See Vol. VI. p. 230.]

Lord Howick to Mr. Monroe. Downing Street, Sept. 25, 1806.

THE undersigned, his majesty's principal secretary of state for foreign affairs, has received his majesty's commands to acquaint Mr. Monroe, that the king having been pleased, on the 16th of May last, to cause it to be signified, that he had directed the necessary measures to be taken for the blockade of the coast, rivers, and ports, from the river Elbe, to the port of Brest, both inclusive, his

majesty is now pleased to declare, that so much of such blockade as extended from the river Elbe to the river Ems, both inclusive, is for the present discontinued, and that from the date hereof, the navigation of the coast, rivers and ports, from the river Elbe to the river Ems, both inclusive, is as free as if such blockade had not taken place.

The undersigned requests Mr. Monroe to accept the assurances, &c. &c.

HOWICK.

At a Court at the Queen's Palace, the 7th of January, 1807, present, the King's Most Excellent Majesty in Council.

WHEREAS the French government has issued certain orders, which, in violation of the usages of war, purport to prohibit the commerce of all neutral nations with his majesty's dominions, and also to prevent such nations from trading with any other country in any articles, the growth, produce or manufacture of his majesty's dominions; and whereas the said government has also taken upon itself to declare all his majesty's dominions to be in a state of blockade, at the time when the fleets of France and her allies are themselves confined within their own ports by the superior valour and discipline of the British navy; and whereas such attempts, on the part of the enemy, would give to his majesty an unquestionable right of retaliation, and would warrant his majesty in enforcing the same prohibition of all commerce with France, which that power vainly hopes to effect against the commerce of his majesty's subjects, a prohibition which the superiority of his majesty's naval forces might enable him to support by actually investing the ports and coasts of the enemy with numerous squadrons and cruisers, so as to make the entrance or approach thereto manifestly dangerous; and whereas his majesty, though unwilling to follow the example of his enemies by proceeding to an extremity so distressing to all nations not engaged in the war, and carrying on their accustomed trade, yet feels himself bound by due regard to the just defence of the rights and interests of his people not to suffer such measures to be taken by the enemy, without taking some steps on his part to restrain this violence, and

to retort upon them the evils of their own injustice ; his majesty is thereupon pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that no vessel shall be permitted to trade from one port to another, both which ports shall belong to or be in the possession of France or her allies, or shall be so far under their control as that British vessels may not trade freely thereat ; and the commanders of his majesty's ships of war and privateers shall be, and are hereby instructed to warn every neutral vessel coming from any such port, and destined to another such port, to discontinue her voyage, and not to proceed to any such port ; and any vessel, after being so warned, or any vessel coming from any such port, after a reasonable time shall have been afforded for receiving information of this his majesty's order, which shall be found proceeding to another such port, shall be captured and brought in, and together with her cargo shall be condemned as lawful prize ; and his majesty's principal secretaries of state, the lords commissioners of the admiralty and the judges of the high court of admiralty, and the courts of vice admiralty are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

Extract of a Letter from the Honourable David M. Erskine, Envoy Extraordinary and Minister Plenipotentiary of his Britannick Majesty, to the Secretary of State of the United States. Philadelphia, June 26, 1807.

"I HAVE the honour to inform you, that his majesty has judged it expedient to re-establish the most rigorous blockade at the entrances of the rivers Ems, Weser, and Elbe inclusive, in consequence of the present position of the enemy upon the continent, which enables him to command the navigation of those rivers."

From the London Gazette.

BY THE KING,

A Proclamation for recalling and prohibiting British Seamen from serving Foreign Princes and States.

[See Vol. vi. p. 58.]

At the Court of the Queen's Palace, the 11th of November, 1807, present, the King's Most Excellent Majesty in Council.

[See Vol. vi. p. 62.]

At the Court at the Queen's Palace, the 11th of November, 1807, present, the King's Most Excellent Majesty in Council.

[See Vol. vi. p. 65.]

At the Court at the Queen's Palace, the 11th of November, 1807, present, the King's Most Excellent Majesty in Council.

[See Vol. vi. p. 68.]

At the Court at the Queen's Palace, the 25th of November, 1807, present, the King's Most Excellent Majesty in Council.

WHEREAS it has been represented that it would be expedient to fix certain periods, at which it shall be deemed that a reasonable time shall have elapsed for receiving information, at different places, of his majesty's order in council of the 11th of November instant, respecting the trade with his majesty's enemies, and in their produce and manufactures; his majesty, taking the same into consideration, and being desirous to obviate any difficulties that may arise in respect thereto, and also to allow ample time for the said order being known to all persons who may be affected thereby, is pleased, by and with the advice of his privy council, to order and declare, and it is hereby ordered and declared, that information of the said order of the 11th of November instant, shall be taken and held to have been received in the places hereinafter mentioned, at the periods respectively assigned to them; namely,

Ports and places within the Baltick—December 21, 1807.

Other ports and places to the northward of Amsterdam—December 11, 1807.

From Amsterdam to Ushant—December 4, 1807.

From Ushant to Cape Finisterre—December 8, 1807.

From Cape Finisterre to Gibraltar, inclusive—December 13, 1807.

Madeira—December 13, 1807.

Ports and places within the straits of Gibraltar, to Sicily and Malta, and the west coast of Italy, inclusive—January 1, 1808.

All other ports and places in the Mediterranean beyond Sicily and Malta—January 20, 1808.

Ports and places beyond the Dardanelles—February 1, 1808.

Any part of the north and western coast of Africa, or the islands adjacent, except Madeira—January 11, 1808.

The United States, and British possessions in North America and the West Indies—January 20, 1808.

Cape of Good Hope, and east coast of South America—March 1, 1808.

India—May 1, 1808.

China, and the coast of South America—June 1, 1808.

And every vessel sailing on or after those days, from those places respectively, shall be deemed and taken to have received notice of the aforesaid order: and it is further ordered, that if any vessel shall sail within twenty days after the periods above assigned respectively, from any of the said places, in contravention of the said order of the 11th of November instant, and shall be detained as prize on account thereof, or shall arrive at any port in this kingdom, destined to some port or place within the restriction of the said order, and proof shall be made to the satisfaction of the court of admiralty in which such vessel shall be proceeded against, in case the same shall be brought in as prize, that the loading of the said vessel had commenced before the said periods, and before information of the said order had actually been received at the port of shipment, the said vessel, together with the goods so laden, shall be restored to the owner or owners thereof, and shall be permitted to proceed on her voyage in such manner as if such vessel had sailed before the day so specified as aforesaid: and it is further ordered, that no proof shall be admitted, or be gone into, for the purpose of showing that information of the said order of the 11th of November instant had not been received at the said places respectively, at the

several periods before assigned: and the right honourable the lord's commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judges of the high court of admiralty and courts of vice admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the Court at the Queen's Palace, the 25th of November, 1807, present, the King's Most Excellent Majesty in Council.

WHEREAS his majesty, by his order in council, dated 11th November instant, respecting the trade to be carried on with his majesty's enemies, was pleased to exempt from the restrictions of the said order all vessels which shall have cleared out from any port or place in this kingdom, under such regulations as his majesty may think fit to prescribe, and shall be proceeding direct to the ports specified in the respective clearances, his majesty, taking into consideration the expediency of making such regulations, is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that all vessels belonging to countries not at war with his majesty, shall be permitted to lade, in any port of the united kingdom, any goods being the produce or manufacture of his majesty's dominions, or East India goods, or prize goods, (all such goods having been lawfully imported) and to clear out with, and freely to convey the same to any port or place in any colony in the West Indies, or America, belonging to his majesty's enemies, such port or place not being in a state of actual blockade, subject to the payment of such duties as may at the time when any such vessels may be cleared out be due by law on the exportation of any such goods, or in respect of the same being destined to the ports of the colonies belonging to his majesty's enemies; and likewise to lade, clear out with, and convey as aforesaid, any articles of foreign produce or manufacture which shall have been lawfully imported into this kingdom, provided his majesty's license shall have been previously obtained for so conveying such foreign produce or manufactures:

And it is further ordered, that any vessel, belonging as aforesaid, shall be permitted to lade in any port of the united kingdom any goods, not being naval or military stores, which shall be of the growth, produce, or manufacture of this kingdom, or which shall have been lawfully imported, (save and except foreign sugar, coffee, wine, brandy, snuff, and cotton,) and to clear out with, and freely to convey the same to any port, to be specified in the clearance, not being in a state of actual blockade, although the same shall be under the restrictions of the said order; and likewise to lade, clear out, and convey foreign sugar, coffee, wine, brandy, snuff, and cotton, which shall have been lawfully imported, provided his majesty's license shall have been previously obtained for the exportation and conveyance thereof: and it is hereby further ordered, that no vessel shall be permitted to clear out from any port or place in this kingdom to any port or place of any country subjected to the restrictions of the said order, with any goods which shall have been laden (after notice of the said order) on board the vessel which shall have imported the same into this kingdom, without having first duly entered and landed the same in some port or place in this kingdom; and that no vessel shall be permitted to clear out from any port or place in this kingdom, to any port or place whatever, with any goods the produce or manufacture of any country subjected to the restrictions of the said order, which shall have been laden after notice as aforesaid on board the vessel importing the same, without having so duly entered and landed the same; or any goods whatever, which shall have been laden, after such notice, in the vessel importing the same, in any port or place of any country subjected to the restrictions of the said order, without having so duly entered and landed the same in some port or place in this kingdom, except the cargo shall consist wholly of flour, meal, grain, or any article or articles the produce of the soil of some country which is not subjected to the restrictions of the said order, except cotton, and which shall have been imported in an unmanufactured state direct from such country into this kingdom, in a vessel belonging to the country from which such goods have been brought, and in which the same were grown and produced:

And it is further ordered, that any vessel belonging to any country not at war with his majesty, may clear out from Guernsey, Jersey, or Man, to any port or place under the restrictions of the said order, which shall be specified in the clearance, not being in a state of actual blockade, with such articles only, not being naval or military stores, as shall have been legally imported into such islands respectively, from any port or place in this kingdom direct; and with respect to all such articles as may have been imported into the said islands respectively, from any port or place under the restrictions of the said order, it shall not be permitted to any vessel to clear out with the same from any of the said islands, except to some port or place in this kingdom: and the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judges of the high court of admiralty and courts of vice admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the Court at the Queen's Palace, the 25th of November, 1807, present, the King's Most Excellent Majesty in Council.

WHEREAS his majesty, by his order in council dated the eleventh of November instant, respecting the trade to be carried on with his majesty's enemies, was pleased to exempt from the restrictions of the said order all vessels belonging to any country not at war with his majesty, together with their cargo, which shall be coming from any port or place in Europe, which is declared in the said order to be subject to the restrictions incident to a state of blockade, direct to some port or place in Europe belonging to his majesty, and also all vessels which shall be cleared out from Gibraltar or Malta, under such regulations as his majesty may think fit to prescribe, and which shall be proceeding direct to the ports specified in their respective clearances:

And whereas it is expedient to encourage the trade from Gibraltar and Malta to countries under the restrictions of the said order, subject to regulations to be made in respect

thereto : his majesty is therefore pleased to prescribe the following regulations in regard to such trade, accordingly, and by and with the advice of his privy council, to order, and it is hereby ordered, that all sorts of flour and meal, and all sorts of grain, tobacco, and any other article in an unmanufactured state, being the growth and produce of any country not being subjected by the said order to the restrictions incident to a state of blockade, except cotton, and naval and military stores, which shall have been imported into Gibraltar or Malta direct from the country where the same were grown and produced, shall, without any license, be permitted to be cleared out to any port or place not being in a state of actual blockade, without the same being compelled to be landed : but neither the said article of cotton, however imported, nor any article which is not the growth, produce or manufacture of this kingdom, or which has not been imported in a British ship, or from this kingdom direct (except fish) and which shall have been laden at the port of original shipment after the period directed by an order of this date, to be taken as the time at which notice of the said order of the eleventh of November shall be considered as having been received at such port of shipment, shall be permitted to be exported from Gibraltar or Malta, except to some port or place in this kingdom ; and all other articles of the growth, produce and manufacture of this kingdom, or which shall have been imported into Gibraltar or Malta in a British ship, or from some port or place in this kingdom, together with the article of fish, however imported, may be exported to any ports or places in the Mediterranean or Portugal, under such license only as is herein after directed to be granted by the governour of Gibraltar and Malta respectively :

And it is hereby further ordered, that licenses be granted by the governours, lieutenant governours, or other persons having the chief civil command at Gibraltar or at Malta, respectively, but in his majesty's name, to such person or persons as the said governours, lieutenant governours, or persons having the chief civil command, shall think fit, allowing such person or persons to export from Gibraltar direct, to any port in the Mediterranean, or to any port of Portugal, or to any port of Spain without the Mediterranean, not further north than Cape Finisterre,

and from Malta direct to any port, being within the Mediterranean, with any articles of the produce or manufacture of his majesty's dominions, and any articles which shall have been imported into Gibraltar or Malta from this kingdom, to whomsoever such articles shall appear to belong (not being naval or military stores) in any vessel belonging to any country not at war with his majesty, or in any vessel not exceeding one hundred tons burden, and being unarmed, belonging to the country to which such vessel shall be cleared out and going, and also to import in any such vessel or vessels as aforesaid, from any port within the Mediterranean, to Gibraltar or Malta; or from any port in Portugal or Spain as aforesaid, to Gibraltar, such port and such destination respectively to be specified in such license, any articles of merchandise whatsoever, and to whomsoever the same may appear to belong; such articles to be specified in the bill of lading of such vessel, subject however to such further regulations and restrictions, with respect to all or any of the said articles so to be imported, or exported, as may be inserted in the said licenses, by the governours, lieutenant governours, or other persons having the chief civil command at Gibraltar or Malta, for the time being, respectively, as to them shall, from time to time, seem fit and expedient :

And it is further ordered, that in every such license shall be inserted the names and residence of the person or persons to whom it shall be granted, the articles and their quantities permitted to be exported, the name and description of the vessel, and of the master thereof, the port to which the vessel shall be allowed to go, which shall be some port not under actual blockade; and that no license so to be granted shall continue in force for longer than two months from its date, nor for more than one voyage; nor any such license to be granted, or acknowledged to be valid, if granted to permit the clearance of any vessel to any port which shall be actually blockaded by any naval force of his majesty or of his allies :

And it is further ordered, that the commanders of his majesty's ships of war and privateers, and all others whom it may concern, shall suffer every such vessel, sailing conformably to the permission given by this order, or having any license as aforesaid, to pass and repass direct between

Gibraltar, or Malta, and such port as shall be specified in the license, in such manner, and under such terms, regulations and restrictions as shall be expressed therein :

And it is further ordered, that in case any vessel so sailing as aforesaid, for which any such license as aforesaid shall have been granted, and which shall be proceeding direct upon her said voyage, shall be detained, and brought in for legal adjudication, such vessel, with her cargo, shall be forthwith released by the court of admiralty or vice admiralty in which proceedings shall be commenced, upon proof being made that the parties had duly conformed to the terms, regulations, and restrictions of the said license ; the proof of such conformity to lie upon the person or persons claiming the benefit of this order, or obtaining or using such license, or claiming the benefit thereof :

And it is hereby further ordered, that no vessel belonging to any state on the coast of Barbary shall be prevented from sailing, with any articles of the growth or produce of such state, from any port or place in such state, to any port or place in the Mediterranean or Portugal, such port or place not being actually blockaded by some naval force belonging to his majesty, or his allies, without being obliged to touch at Gibraltar or Malta :

And the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judges of the high court of admiralty and courts of vice admiralty are to take the necessary measures herein, as to them shall respectively appertain.

W. FAWKENER.

At the Court at the Queen's Palace, the 25th of November, 1807, present, the King's Most Excellent Majesty in Council.

WHEREAS his majesty, by his order in council, of the eleventh of November instant, was pleased to order and declare, that all trade in articles which are of the produce or manufacture of the countries and colonies mentioned in the said order, shall be deemed and considered to be unlawful (except as is therein excepted ;) his majesty by and

with the advice of his privy council, is pleased to order and declare, and it is hereby ordered and declared, that nothing in the said order contained shall extend to subject to capture or confiscation any articles of the produce and manufacture of the said countries and colonies laden on board British ships, which would not have been subject to capture and confiscation if such order had not been made: and the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judges of the high court of admiralty and courts of vice admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the Court at the Queen's Palace, the 25th of November, 1807, present, the King's Most Excellent Majesty in Council.

His majesty, taking into consideration the circumstances under which Prussia and Lubeck have been compelled to shut their ports against British ships and goods, is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that all ships and goods belonging to Prussia which may have been seized subsequent to his majesty's order of the nineteenth of November, one thousand eight hundred and six, and are now detained in the ports of this kingdom, or elsewhere, and all ships and goods belonging to inhabitants of Lubeck which are so detained, shall be restored upon being pronounced by the high court of admiralty, or any court of vice admiralty, in which they have been or may be proceeded against, to belong to subjects and inhabitants of Prussia or Lubeck, and not otherwise liable to confiscation; and that such ships and goods shall be permitted to proceed to any neutral port, or to the port to which they respectively belong: and it is further ordered, that the ships and goods belonging to Prussia or Lubeck shall not, until further orders, be liable to detention, provided such ships and goods shall be trading to or from any port of this kingdom, or between neutral port and neutral port, or from any port of his majesty's allies, and proceeding direct to the port specified in their respective clearances.

And the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judges of the high court of admiralty and courts of vice admiralty, are to take the necessary measures herein, as to them shall respectively appertain.

W. FAWKENER.

At the Court at the Queen's Palace, the 25th of November, 1807, present, the King's Most Excellent Majesty in Council.

His majesty taking into consideration the circumstances under which Portugal has been compelled to shut her ports against the ships and goods of his majesty's subjects, is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that all ships and goods belonging to Portugal which have been, and are now detained in the ports of this kingdom, or elsewhere, shall be restored, upon being pronounced, by the high court of admiralty, or by the court of vice admiralty, in which proceedings may have been, or shall be commenced, to belong to subjects and inhabitants of Portugal, and not otherwise liable to confiscation ; and that the said ships and goods shall be permitted to proceed to any neutral port, or to Portugal : and it is further ordered, that the ships and goods belonging to Portugal shall not, until further orders, be liable to detention ; provided, such ships and goods shall be trading to or from any port of this kingdom, or to and from Gibraltar or Malta, and proceeding direct to the port specified in their clearance, or between neutral port and neutral port, or between Portugal and the ports of her own colonies, or from any port of his majesty's allies, and proceeding direct to the ports specified in their respective clearances ; provided, such ports shall not be at the time in a state of actual blockade : and it is further ordered, that the ships of Portugal shall not be considered as entitled, under any treaty between his majesty and Portugal, to protect any goods laden therein which may be otherwise subject to confiscation.

And the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of

state, the lords commissioners of the admiralty, and the judges of the high court of admiralty and courts of vice admiralty, are to take the necessary measures herein, as to them shall respectively appertain.

W. FAWKENER.

CIRCULAR.

Foreign Office, January 8, 1808.

THE undersigned, his majesty's principal secretary of state for foreign affairs, has received his majesty's commands to acquaint Mr. Pinkney, that his majesty has judged it expedient to establish the most rigorous blockade at the entrances of the ports of Carthagená, Cadiz, and St. Lucar, and of all the intermediate ports situated and lying between the said ports of Carthagená and St. Lucar. Mr. Pinkney is therefore requested to apprise the American consuls and merchants residing in England, that the entrances of all the ports above mentioned are, and must be considered as being in a state of blockade, and that from this time all the measures, authorized by the law of nations, and the respective treaties between his majesty and the different powers, will be adopted and executed with respect to vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

GEORGE CANNING.

William Pinkney, Esq. &c. &c.

ANNO QUADRAGESIMO OCTAVO.

GEORGE III. REGIS.

CAP. XXVI.

An Act for granting to his Majesty, until the end of the next Session of Parliament, Duties of Customs on the Goods, Wares and Merchandise therein enumerated, in furtherance of the Provisions of certain Orders in Council. [March 28, 1808.]

MOST GRACIOUS SOVEREIGN,—Whereas measures which have been taken by powers at war with your majesty.

prohibiting, in violation of the law of nations, all intercourse with this kingdom, and all trade in any articles of its growth or manufacture, have rendered it necessary for your majesty to issue orders in council to counteract the disadvantages which were thereby imposed upon the trade of your majesty's subjects, and to retaliate upon the enemy the evils which he intended to inflict upon this kingdom: And whereas it is expedient and necessary, in order effectually to accomplish the object of such orders, that duties of customs should be granted upon certain goods exported from Great Britain; we, your majesty's most dutiful and loyal subjects, the commons of the united kingdom, in parliament assembled, do most humbly beseech your majesty that it may be enacted; and be it enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That from and after the passing of this act, there shall be raised, levied, collected, and paid unto his majesty, his heirs and successors, upon all goods, wares, and merchandise, enumerated or described in the tables (A) (B) and (C) annexed to this act, exported from Great Britain, the several duties of customs, as the same are respectively described and set forth in figures in the said tables.

II. And be it further enacted, That the duties granted and imposed by this act, and made payable according to the weight, tale, gauge, measure, or value of any goods, wares, or merchandise charged with such duties, shall be charged and payable upon any greater or less weight, number, quantity, or value thereof than the weight, number, quantity, or value particularly inserted, described and set forth in the tables hereunto annexed, marked (A) (B) and (C) in proportion to the actual weight, number, quantity, or value of such goods, wares, or merchandise.

III. And be it further enacted, That where any goods, wares and merchandise, which are allowed to be, or which shall have been warehoused, or otherwise secured, at the time of the importation thereof, without payment of the duties due thereon, shall be taken out or entered inwards for home consumption, and the duties of customs and excise then due thereon shall have been paid, and the same shall afterwards be entered for exportation, then and

in every such case the duties of customs by this act imposed shall be paid on the exportation of the said goods, wares, and merchandise, notwithstanding the payment of any drawbacks to which the exporter thereof may in such case, under any law or laws then in force, be entitled.

iv. And whereas by an order in council dated the twenty-fifth of November, one thousand eight hundred and seven, it was ordered and declared, that information of a certain other order in council of the eleventh of November, one thousand eight hundred and seven, should be taken and held to have been received in the places herein after mentioned, at the periods respectively assigned to them, namely, ports and places within the Baltic, on the twenty-first of December, one thousand eight hundred and seven; other ports and places to the northward of Amsterdam, on the eleventh of December, one thousand eight hundred and seven; from Amsterdam to Ushant, on the fourth of December, one thousand eight hundred and seven; from Ushant to Cape Finisterre, on the eighth of December, one thousand eight hundred and seven; from Cape Finisterre to Gibraltar inclusive, on the thirteenth of December, one thousand eight hundred and seven; Madeira, the thirteenth of December, one thousand eight hundred and seven; ports and places within the straits of Gibraltar to Sicily and Malta, and the west coasts of Italy inclusive, on the first of January, one thousand eight hundred and eight; all other ports and places in the Mediterranean beyond Sicily and Malta, on the twentieth of January, one thousand eight hundred and eight; ports and places beyond the Dardanelles, on the first of February, one thousand eight hundred and eight; any part of the north and western coast of Africa or the islands adjacent, except Madeira, on the eleventh of January, one thousand eight hundred and eight; the United States and British possessions in North America and the West Indies, on the twentieth of January, one thousand eight hundred and eight; Cape of Good Hope, and the east coast of South America, on the first of March, one thousand eight hundred and eight; India, on the first of May, one thousand eight hundred and eight; China and the coast of South America, on the first of June, one thousand eight hundred and eight; be it therefore enacted, that nothing in this act contained shall extend to prevent any vessel which shall

have sailed from any such port or place before the period above specified as aforesaid, and which shall have been brought into or shall have come into any port in Great Britain under any warning given in pursuance of any of the said orders in council, from proceeding on her voyage to any port or place whatever, without entering or landing any part of her cargo in Great Britain (except cotton wool, or yarn, or Jesuits bark) and without the payment of any duty granted by this act upon any part of the cargo (except cotton wool, or yarn, or Jesuits bark;) provided always, that if the port or place to which such vessel shall proceed, shall belong to a country in amity with his majesty, and from which the British flag is not excluded, such vessel shall in that case be permitted to proceed without being compelled to land any part of her cargo, or to pay any duty imposed by this act in respect of the same.

v. Provided always, and be it further enacted, That nothing in this act contained, shall extend to charge with any of the duties granted by this act, any goods, wares or merchandise (except cotton wool or yarn, and Jesuits bark) imported into Great Britain in any vessel, under any license, bearing date before the eleventh day of November last, or in any vessel which shall have been cleared out from the port or place from which such goods, wares or merchandise, were imported before the period in this act specified, as to such port or place as the period at which the said orders in council shall be taken and held to have been received, in any cases in which the said goods, wares or merchandise shall, upon their importation, have been or shall be warehoused for exportation only.

vi. Provided always, and be it further enacted, That nothing in this act contained shall extend to charge with any of the duties granted by this act, any goods, wares or merchandise on the exportation from Great Britain (except cotton wool or yarn, and Jesuits bark) which shall have been or shall be imported into Great Britain prior to the 1st day of June, 1808, from any free port in any of his majesty's plantations in the West Indies, or any other port or place, under any license from the governour of any of his majesty's plantations duly authorized for that purpose, bearing date prior to the 21st day of January last, in case such goods, wares or merchandise shall, on their

importation into Great Britain, have been or shall be warehoused for exportation only.

vii. Provided also, and be it further enacted, That no goods, wares or merchandise described in the said tables (A) and (B) of the growth and produce of St. Domingo, which shall have been or shall be imported into Great Britain by license in return for goods exported to the said island, bearing date prior to the fifth of February, one thousand eight hundred and eight, and which shall have been or shall be warehoused for exportation, shall be liable, on the exportation thereof, to any of the duties of customs granted by this act; and all such goods, wares and merchandise, the growth and produce of St. Domingo, which shall have been or shall be imported into Great Britain under any license bearing date subsequently to the said fifth day of February, shall, upon the exportation thereof from Great Britain, be chargeable with, and subject and liable to one half part only of the duties of customs granted by this act upon goods, wares and merchandise of the like description, upon their exportation from Great Britain.

viii. And be it further enacted, That all goods, wares or merchandise, which have been or may be condemned as prize, shall, on the exportation thereof from Great Britain, be charged with and subject and liable to the duties by this act imposed on the exportation of the like goods, wares or merchandise respectively, any law, custom or usage to the contrary notwithstanding: Provided always, that nothing in this act contained shall extend to charge with any of the duties granted by this act, any goods, wares or merchandise (except cotton wool or yarn, or Jesuits bark) which shall have been or shall be brought into any port in Great Britain for adjudication before the passing of this act, whether the same shall have been or shall be subsequently restored or condemned as prize.

ix. And be it further enacted, That the duties of customs described and set forth in figures in the said tables hereunto annexed, marked (A) (B) and (C) on the several goods, wares and merchandise specified therein, shall be paid to the proper officer authorized to receive the duties of customs on goods, wares and merchandise imported into Great Britain, and may and shall respectively be managed, ascertained, raised, levied, collected, answered,

paid, and recovered, except where any alteration is expressly made by this act, in such and the like manner, and by the same means, ways, or methods, as former duties of customs upon goods, wares, or merchandise, in general, and also by any such special means, ways, or methods respectively, as former duties of customs upon goods, wares or merchandise of the same sorts or kinds were or might be managed, ascertained, raised, levied, collected, answered, paid, and recovered; and the goods, wares or merchandise whereon duties of customs are by this act charged, as the same are respectively inserted, described, and set forth in the said tables, upon exportation thereof from Great Britain, shall be, and the same are hereby made subject and liable to all and every the conditions, regulations, securities, rules, restrictions, seizures, and forfeitures, to which goods, wares, or merchandise in general, and also all and every the special conditions, rules, regulations, restrictions, seizures, sales, and forfeitures respectively, to which the like goods, wares or merchandise were subject and liable by any act or acts of parliament, in force on and immediately before the passing of this act, respecting the revenue of customs, except where any alteration is expressly made by this act; and all pains, penalties, fines, and forfeitures, of whatever nature or kind the same may be, as well pains of death as others, for any offence whatever committed against or in breach of any act or acts of parliament in force on or immediately before the passing of this act, made for securing the revenue of customs, or for the regulation or improvement thereof, and the several clauses, powers, provisos, and directions contained in any such act or acts, shall (unless where expressly altered by this act) extend to and be respectively applied, practised, and put in execution, in respect of the several duties of customs hereby charged, in as full and ample a manner, to all intents and purposes whatever, as if all and every the said acts, clauses, provisos, powers, directions, fines, pains, penalties, or forfeitures, were particularly repeated and re-enacted in the body of this act, and made part thereof.

x. And be it further enacted, That in all cases where, by the said tables, the duties of customs by this act imposed upon the exportation of goods, wares and merchandise from Great Britain, are charged not according to the

weight, tale, guage, or measure, but according to the value thereof, such value shall be considered as the same shall be at the port of exportation, without any deduction or abatement whatever; and such value shall be ascertained by the declaration of the exporter or proprietor of such goods, wares, or merchandise, or his known agent, in the manner and form, and under all the rules, regulations, and restrictions, and subject to the same forfeitures and penalties as are prescribed and directed for ascertaining and collecting the duties to be paid upon goods, wares, and merchandise, according to the value thereof, by an act passed in the twenty-seventh year of the reign of his present majesty, entitled, "An act for repealing the several duties of customs and excise, and granting other duties in lieu thereof, and for applying the said duties, together with the other duties composing the publick revenue, for permitting the importation of certain goods, wares and merchandise, the produce or manufacture of the European dominions of the French king, into this kingdom, and for applying certain unclaimed moneys remaining in the exchequer for the payment of annuities on lives to the reduction of the national debt;" and in case any goods, wares, or merchandise, chargeable with any such duty by this act, according to value, shall not be valued according to the true price or value thereof, and according to the true intent and meaning of this act, then it shall be lawful for the proper officer or officers of the customs, to cause the same to be detained; and the said goods, wares and merchandise, shall be dealt with, and the proper officer of the customs shall proceed, with relation to the said goods, wares and merchandise, so detained, in every respect in the manner prescribed in such case by the said recited act.

x1. And be it further enacted, That in case any goods, wares or merchandise, upon which duties of customs are hereby imposed, shall be detained by any officer of the customs on account of the same not being valued according to the true and real value thereof, and according to the true intent and meaning of this act, it shall be lawful for the commissioners of his majesty's customs in England and Scotland respectively, for the time being, or any three or more of them respectively, upon proof being made to their satisfaction that no fraud was intended, to direct the entry to be amended, upon such terms and conditions as, under

the circumstances of the case, shall appear to the said commissioners of the customs in England and Scotland respectively to be reasonable, and as they shall think fit to direct : Provided always, That if the importer, exporter, or proprietor of such goods, wares, or merchandise, shall accept the terms or conditions prescribed by the said commissioners of the customs respectively, such importer, exporter, or proprietor shall not have or be entitled to any recompense or damage on account of the detention of such goods, wares or merchandise, or have or maintain any action whatever for the same ; any law, custom, or usage to the contrary notwithstanding.

XII. And be it further enacted, That such of the duties of customs by this act imposed, as shall arise in that part of Great Britain called England, shall be under the management of the commissioners of the customs in England for the time being ; and such thereof as shall arise in that part of Great Britain called Scotland, shall be under the management of the commissioners of the customs in Scotland for the time being.

XIII. And be it further enacted, That in case the whole or any part of the cargo of any vessel, which shall arrive in any port of Great Britain, shall consist of any goods, wares, or merchandise whatever, of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England trading to the East Indies, such vessel shall forthwith proceed to the court of London, where all such goods, wares and merchandise shall be landed, lodged, and secured under his majesty's lock, in some of the warehouses belonging to the said united company, at the expense of the proprietors of such goods, wares and merchandise, and be there examined, and an account taken thereof by the proper officers of the customs, and of the excise in cases where that revenue is concerned, and such goods, wares, and merchandise shall remain so secured until the exportation thereof ; and before any such goods, wares, and merchandise shall be taken out of such warehouse for the purpose of exportation, the several duties of customs, as the same are described and set forth in figures in the table hereunto annexed, marked (C) shall be first paid to the proper officer of the customs ; and in those cases in the said table marked (C) where the duties to be

paid on the exportation of any such goods, wares, and merchandise shall not be charged according to the weight, tale, guage, or measure, but according to the value thereof, such value shall be ascertained by the declaration of the proprietor or his known agent, in the manner and form, and under the rules, regulations, and restrictions, and subject to the same forfeitures and penalties as are prescribed and imposed for ascertaining and collecting duties to be paid according to the value thereof, by the said recited act passed in the twenty-seventh year of his present majesty; and in case any such goods, wares, or merchandise, shall not be valued according to the true and real value thereof, then it shall be lawful for the proper officer or officers of the customs to cause the same to be detained, and the said goods, wares and merchandise, shall be dealt with, and the proper officers of the customs shall proceed in the manner prescribed in such case by the said recited act: provided always, that such goods, wares, or merchandise, so detained, (cotton wool excepted) shall be sold only for the purpose of being exported from Great Britain, any law, custom, or usage to the contrary notwithstanding: provided also, that in case any part of the cargo of any such ship or vessel so consisting in part of East Indian goods, wares, or merchandise, as aforesaid, shall consist of goods, wares, or merchandise, not being of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England, trading to the East Indies, such last mentioned goods, wares, and merchandise, shall be duly entered, either to be secured or lodged in warehouses, according to the rules, regulations, and restrictions, of an act passed in the forty-third year of his present majesty, entituled, an act for permitting certain goods imported into Great Britain to be secured in warehouse, without payment of duty; and of a certain other act, passed in the forty-fifth year of his present majesty, entituled, an act to authorize the lords commissioners of the treasury to permit certain articles to be warehoused in different ports in Great Britain, upon giving security for the payment of duties upon the articles therein mentioned; and of a certain other act, passed in the forty-sixth year of his said majesty, entituled, an act to extend the provisions of an

act, made in the forty-third year of his present majesty. for permitting certain articles to be warehoused in Great Britain, to other articles not therein mentioned, and to alter the condition of the bond directed to be given by an act of the twenty-fourth year of his present majesty, by the masters and owners of vessels and boats licensed by the lords of the admiralty, provided such goods, wares and merchandise, by law may be so lodged or secured, otherwise the full duties of customs and of excise (in cases where any such duties are payable on such goods, wares, and merchandise) due thereon, shall be paid to the proper officers of the customs and excise; and all such goods, wares, and merchandise, so brought into the port of London, shall on the exportation thereof, be charged with the duties due and payable by this act on any such goods, wares, and merchandise respectively, as the same are described and set forth in the tables hereunto annexed, marked (A) and (B) as the case may be.

xiv. Provided always, and be it further enacted, That if it shall appear to the satisfaction of the collector and comptroller of the customs of any port in Great Britain. by the report of any vessel which shall arrive at such port with any cargo, part whereof shall consist of goods, wares, or merchandise of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England, trading to the East Indies, that such goods, wares and merchandise do not exceed in value one fourth part of the whole value of the cargo of such vessel, then and in such case it shall be lawful for the owner, consignee, or captain of such vessel, after giving such security as shall be directed by the commissioners of the customs in England and Scotland respectively, or any three of them, for the due conveyance of such goods, wares, and merchandise as aforesaid, to the port of London, there to be warehoused as aforesaid, and not before, to land the cargo of such vessel at the port of her arrival, except such goods, wares, and merchandise as aforesaid, and either to cause such goods, wares, and merchandise to be conveyed in the same ship to the port of London, or to cause the same to be transhipped in order to be conveyed to the said port, upon the said security, and under such regulations and restrictions for securing the conveying the same to the said port, as

shall be directed by the commissioners of the customs of England and Scotland respectively.

xv. Provided always, and be it further enacted, That the proprietor or proprietors of any goods, wares, or merchandise, brought into Great Britain, may, if he or they shall be so disposed, instead of paying the full duties of customs and excise due and payable thereon, secure or lodge in warehouses approved by the commissioners of the customs of England or Scotland respectively, without payment of duty in the first instance, any goods, wares, and merchandise, which, by virtue of any law in force at the time of passing this act, are allowed to be so secured and warehoused, under the conditions and regulations of the said recited acts passed in the forty third, forty fifth, and forty-sixth years of his present majesty respectively; and all such goods, wares, and merchandise, so warehoused, on which the full duties of customs and excise shall have been paid, shall, on the exportation thereof, be subject and liable to and be charged with the duties of customs imposed by this act, as inserted and set forth in the tables hereunto annexed, as the case may be.

xvi. Provided always, and be it further enacted, That it shall be lawful for the commissioners of customs, or any three or more of them, upon the request of the owner, proprietor, or consignee of any goods, wares, or merchandise warehoused, to destroy the same, in such manner as they shall respectively direct, without payment of duty, and upon payment only of any charges and expenses due thereon.

xvii. And be it further enacted, That the importers, proprietors, or consignees of any goods, wares, or merchandise, which shall have been lodged in warehouses, or otherwise secured according to the directions of the said recited act, passed in the forty-third year of his present majesty, or any other act or acts of parliament, by virtue and under the authority of which any such goods, wares, or merchandise shall have been so lodged or secured, shall, within fifteen calendar months, to be computed from the day on which such importers, proprietors, or consignees of such goods, wares, or merchandise shall have made their first entry thereof, clear and take from and out of such warehouses or places respectively, all such goods, wares, and merchandise, either for the purpose of being

exported according to the directions of this act, on payment of the duties hereby imposed, or to be used or consumed in Great Britain : provided always, that such goods, wares and merchandise may legally be taken out for that purpose, on payment of the full duties of customs and excise that are or may be due or payable thereon at the time the same are so taken out ; and in case any such importers, proprietors, or consignees shall fail or neglect so to do, it shall be lawful for the commissioners of the customs in England or Scotland respectively, to cause all such goods, wares, or merchandise, to be publicly sold, or exposed to sale ; and after such sale, the produce thereof shall first be applied to or towards the payment of the freight, primage, and charges of warehouse room, and other charges that shall arise thereon, next to the duties of customs and excise, and the overplus (if any) shall be paid to the proprietor or other persons authorized to receive the same : provided always, that in case any goods, wares, or merchandise, so remaining and directed to be sold, shall be of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England trading to the East Indies, or any goods, wares, and merchandise, which shall be prohibited to be used or consumed in Great Britain, then, and in such case, all such goods, wares or merchandise shall be sold only for the purpose of being exported, and not on any pretence whatever to be used or consumed in Great Britain : provided, that no such goods, wares, or merchandise, shall be so sold, unless a price can be obtained for the same, equal at least to the full amount of all duties of customs and excise, charged and chargeable thereon, together with the expenses ; but if such price cannot be obtained, then and in such case, all such goods, wares or merchandise, shall be effectually destroyed by and in the presence of the proper officers of the customs, and also the officers of the excise, in case any duties of excise are payable thereon, who are hereby respectively authorized and required to destroy the same accordingly ; and the proprietor or owner of such goods, wares, and merchandise, shall have no claim, either in law or equity, to the value of such goods, wares, or merchandise, or any part thereof, so destroyed as aforesaid ; any law, custom or usage to the contrary notwithstanding : pro-

vided always, that all such goods, wares and merchandise, may be re-exported to the country from which they were brought, or to the country from which the vessel, in which such goods, wares or merchandise, were imported, shall belong, or shall have belonged, without payment of the duties imposed by this act, and upon payment only of such warehouse or port duties as shall have become due thereon; provided, that the British flag shall not, at the time of such re-exportation, be excluded from such country respectively.

xviii. Provided always, and be it further enacted, That nothing in this act contained shall extend or be construed to extend, to charge the duties imposed by this act on any goods, wares, or merchandise whatever, that shall be exported from Great Britain to that part of the united kingdom called Ireland, or any goods, wares or merchandise, the growth, produce or manufacture of Ireland, having been imported from thence directly to Great Britain, on the exportation thereof to any country whatever.

xix. Provided always, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge the duties by this act imposed on the exportation of any flour or meal, or articles not being either in the whole or in part manufactured, being of the growth or produce of any state in Europe or America, in amity with his majesty, and imported in any ship belonging to such state, or in any British ship navigated according to law, directly from any such state (except coffee, sugar, pimento, cocoa nuts, hides, tallow, oil, and cotton wool or yarn, or Jesuits bark.)

xx. Provided also, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge with the duties imposed by this act, any goods, wares or merchandise, of the growth, produce or manufacture of any British colony, plantation or settlement in Africa or America, which shall have been imported directly from such colony, plantation or settlement respectively, and exported to any port or place whatever.

xxi. Provided also, and be it further enacted, That nothing in this act contained shall extend or be construed to extend, to charge with the duties imposed by this act, any goods, wares or merchandise that shall have been imported by the united company of merchants of England

trading to the East Indies, or by any subjects of his majesty trading within the limits of the charter of the said company, with their license, upon the exportation of such goods, wares or merchandise, from Great Britain to any port or places whatever.

xxii. Provided also, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge the duty by this act imposed on any wine, spirits or tobacco, which shall be shipped for the use of his majesty's army or navy, but such wine, spirits, or tobacco shall be subject and liable to all and every the rules, regulations, and conditions, limitations, securities, penalties, and forfeitures, to which such articles so shipped would have been subject and liable, if this act had not been made.

xxiii. Provided also, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge with the duties by this act imposed any the goods, wares, or merchandise, exported from Great Britain to the Isle of Man, by virtue and under the authority of any license which the commissioners of his majesty's customs in England or Scotland, or any three or more of them respectively, are or may be by law authorized and empowered to grant.

xxiv. Provided always, and be it further enacted, That the duties by this act imposed on goods, wares and merchandise exported from Great Britain, shall not be charged or payable on any goods, wares or merchandise not manufactured either in whole or in part, nor upon any wine or any article of provision (spirits excepted) exported to any British colony, plantation or settlement in Africa or America, or to any British settlement within the limits of the charter granted to the united company of merchants of England trading to the East Indies; any thing in this act to the contrary notwithstanding.

xxv. And be it further enacted, That no ship or vessel of the United States of America, which shall enter any port in Great Britain or Ireland, in consequence of her having been warned not to proceed to a blockaded port under his majesty's order in council of the 11th November, 1807, shall be liable to be charged with the duty of two shillings a ton of the burden of any ship or vessel belonging to the inhabitants of the said United States, imposed

by an act of the thirty-seventh year of his majesty's reign, which has been continued and revived by the several subsequent acts.

xxvi. Provided always, and be it further enacted, That nothing herein contained, shall extend to affect or take away any of the rights or privileges of the West India dock company, of the London dock company, or of the East India dock company.

xxvii. And be it further enacted, That the duties granted and imposed by this act shall continue in force until the end of the next session of parliament, unless his majesty, by his order in council, shall think fit to suspend or reduce the same, or any part thereof.

xxviii. Provided always, and be it further enacted, That it shall be lawful for his majesty, at any time, by order in council, to suspend the operation of this act, as to any duties, or any proportion or part of any duties granted by this act, in respect of any country for the time being, in amity with his majesty, and to allow the exportation to any such country so in amity with his majesty as aforesaid, of any goods, wares and merchandise, made subject by this act to any duties on exportation, without the payment of such duties, upon such terms and conditions, and subject to such restrictions, as to his majesty may seem fit.

xxix. Provided always, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to prevent his majesty from prohibiting the exportation of any articles, matters, or things, to any country or place from which the British flag is excluded, in any case in which it would have been lawful for his majesty to prohibit such exportation, if this act had not passed.

xxx. Provided always, and be it further enacted, That the duties imposed by an act, passed in the forty-third year of his present majesty's reign, entituled, "An act for granting to his majesty during the present war, and until the ratification of a definitive treaty of peace, additional duties on the importation and exportation of certain goods, wares and merchandise, and on the tonnage of ships and vessels in Great Britain, on certain goods, wares and merchandise, therein enumerated and described, and which by another act passed in the forty-third year of his

present majesty's reign, intituled, " An act for permitting certain goods imported into Great Britain to be secured in warehouses without payment of duty, were directed to be paid on all such goods, wares and merchandise (sugar excepted) which should be exported from the warehouses or places in which such goods, wares and merchandise had been lodged or secured, under the directions of the said last recited act, shall not be due or payable on any such goods, wares and merchandise so exported, on which other duties are charged, according to the table marked (A) hereunto annexed; but that the duties on any such goods, wares and merchandise, as set forth in the said table, shall, during the continuance of such duties, be instead and in lieu of the duties charged and imposed thereon by the said two last recited acts passed in the forty-third year of his present majesty's reign.

xxxI. And be it further enacted, That all the moneys arising from the duties of customs by this act imposed (the necessary charge of raising and accounting for the same excepted) shall from time to time be paid into the receipt of his majesty's exchequer at Westminster, distinctly and apart from all other branches of the publick revenue; and that there shall be provided and kept in the office of the auditor of the said receipt of exchequer, a book or books in which all the moneys arising from the said duties, and paid into the said receipt as aforesaid, shall be entered separate and apart from all other moneys paid and payable to his majesty, his heirs and successors, upon any account whatever; and the said moneys so paid in as aforesaid, into the receipt of his majesty's exchequer, shall from time to time, as the same shall be paid into the said receipt, be issued and applied to such services as shall then have been voted by the commons of the united kingdom of Great Britain and Ireland in this present session of parliament, for the service of the year one thousand eight hundred and eight, or shall be voted by the said commons for the service of any subsequent year.

xxxII. And be it further enacted, that if any action or suit shall be brought or commenced against any person or persons for any thing done in pursuance of this act, or of any order in council referred to in this act, such action or suit shall be commenced within three calendar months next after the fact committed, and not afterwards, and

shall be laid in the county or place where the cause of complaint did arise, and not elsewhere ; and the defendant or defendants in every such action or suit may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon ; and if the jury shall find for the defendant or defendants in any such action or suit, or if the plaintiff or plaintiffs shall be nonsuited, or discontinue his, her, or their action or suit, after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and have the like remedy for the same as any defendant had in other cases to recover costs by law.

XXXIII. And be it further enacted. That this act may be varied, altered, or repealed, by any act or acts to be made in this present session of parliament.

TABLES TO WHICH THIS ACT REFERS.

TABLE (A.)

A TABLE of duties of customs payable on the exportation of certain foreign goods, wares, and merchandise, therein enumerated or described, not being imported by the united company of merchants of England trading to the East Indies, (which on importation, are allowed to be secured under the regulations of the 43 Geo. III. cap. 132, 45 Geo. III. cap. 87, and 46 Geo. III. cap. 137, without payment of the duties due thereon ;) and which shall be exported from Great Britain ; except as is provided in the act to which this table is annexed.

Arabic gum ; see gum. Barilla, the cwt. 10s. Bark, viz. Jesuits bark or cortex peruvianus, the lb. 6s. Bow-spirits ; see masts, in wood. Brandy ; see spirits. Buffalo hides ; see hides. Bull hides ; see hides. Cochineal, the lb. 7s. Cocoa nuts, the cwt. 1*l*. Coffee, the cwt. 1*l*. 8s. Cortex Peruvianus ; see bark. Cotton wool ; see wool. Cotton yarn ; see yarn. Cow hides ; see hides. Currants, the cwt. 9s. Denia raisins ; see raisins. Faro raisins ; see raisins. Figs, the cwt. 7s. Fir timber ; see

timber, in wood. Geneva; see spirits. Ginger, the cwt. 7s. Gum, viz. Arabic, the cwt. 10s. Senega, the cwt. 10s. Hemp, rough or undressed, the cwt. 15s. Hides, viz. buffalo, bull, cow, or ox hides, not tanned, tawed, or in any way dressed, the hide 3s. Jalap, the lb. 6d. Jesuits bark; see bark. Indigo, the lb. 2s. Iron, in bars, the ton, containing 20 cwt. 3l. Kelp, in bars, the ton, containing 20 cwt. 4l. Lexia raisins; see raisins. Lipari raisins; see raisins. Mahogany; see wood. Manna, the lb. 6d. Masts; see wood. Molasses, the cwt. 5s. Oak timber; see timber, in wood. Oars; see wood. Oil, viz. ordinary oil of olives, the ton, containing 252 gallons, 10l. 10s. Sallad oil, the gallon, 1s. Ox hides; see hides. Pimento, the lb. 2d. Pitch, the last, containing 12 barrels, each barrel not exceeding $31\frac{1}{2}$ gallons, 4s. 4d. Prize goods, viz. goods, wares, and merchandise, taken and condemned as prize, not being of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England trading to the East Indies, and not being particularly enumerated or charged with duty in this table—for every 100l. of the value thereof, 20l. Prohibited goods viz. goods, wares or merchandise, not being of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England trading to the East Indies—for every 100l. of the value thereof, 20l. Quicksilver, the lb. 1s. Raisins, the cwt. viz. Belvidere raisins, 4s. 6d. Denia raisins, 4s. Faro raisins, 4s. 6d. Lexia raisins, 4s. 6d. Lipari raisins, 4s. 6d. Smyrna raisins, 5s. Raisins of the sun, 9s. 4d. Not otherwise enumerated or described, 4s. Raw silk; see silk. Rhubarb, the lb. 2s. Rice, the cwt. 2d. Rosin, the cwt. 9d. Rum; see spirits. Saffron, the lb. 3s. Sallad oil; see oil. Sena, the lb. 6d. Silk, viz. Raw, 2s. 6d. Thrown, 4s. 2d. Waste, 6d. Smalts, 6d. Smyrna raisins; see raisins. Spirits, viz. Brandy, single, the gallon, 8d. above proof, 1s. 4d. Geneva, single, 8d. above proof, 1s. 4d. Rum, single, 8d. above proof, 1s. 4d. of any other kind, single, 8d. above proof. 1s. 4d. Sugar, the cwt. viz. Brown or Muscovado, 10s. White or clayed, 14s. Tallow, the cwt. 7s. Tar, the last, containing 12 barrels, each barrel not exceeding $31\frac{1}{2}$ gallons, 4s. 4d. Timber; see wood. Tobacco, the lb. $1\frac{1}{2}$ d. Turpentine.

common, the cwt. 3*s.* 6*d.* Waste silk; see silk. Wine of all sorts, the ton, containing 252 gallons, 6*l.* Wood, viz. mahogany, the ton, containing 20 cwt. 1*l.* Masts, yards and bowsprits, viz. six inches in diameter, and under eight inches, the piece, 5*s.*—eight inches in diameter, and under twelve inches, the piece, 10*s.*—twelve inches in diameter, or upwards, the load, containing 50 cubic feet, 1*l.* 7*s.* Oars, the 120, 2*l.* Timber of all sorts, the load, (containing 50 cubic feet) 1*l.* 7*s.* Wool, viz. cotton wool of all sorts, the lb. 9*d.* Yards; see masts, in wood. Yarn, viz. cotton yarn, 2*s.* All other goods, wares and merchandise, having been, or which are allowed to be secured under the regulations of the 43 Geo. iii. cap. 132. 45 Geo. iii. cap. 3. 87. and 46 Geo. iii. cap. 137, for every 100*l.* of the produce and amount of the duties of customs, chargeable on the importation thereof, by 43 Geo. iii. cap. 68, 40*l.*

For the several exemptions from the duties charged in this table, whether relating to goods exported, or to countries or places to which goods shall be exported, see the act to which this table is annexed.

TABLE (B.)

A TABLE of duties of customs payable on the exportation of certain foreign goods, wares and merchandise therein enumerated or described (not being allowed to be secured under the regulations of the 43 Geo. iii. cap. 132, 45 Geo. iii. cap. 87, and 46 Geo. iii. cap. 137, without payment of the duties due thereon) not having been imported by the united company of merchants of England trading to the East Indies, and which shall be exported from Great Britain; except as is provided in the act to which this table is annexed.

Anchors, for every 100*l.* of the value, 40*l.* Annotto, the cwt. 2*l.* 8*s.* 4*d.* Argol, 5*s.* Ashes, viz. pot and pearl ashes, 10*s.* Bark, viz. oak bark, 2*s.* 6*d.* Barley; see corn. Beans; see corn. Beef, salted, 15*s.* Beer or bigg; see corn. Bread or biscuit, 4*s.* Butter, 1*l.* Cables, 13*s.* Cassia lignea

the lb. 6s. Cheese, the cwt. 15s. Cochineal dust, the lb. 3s. 6d. Copper, viz. copper in bricks, rose copper, cast copper, and copper in plates, the cwt. 2l. Cordage, 18s. Corn, viz. wheat, the quarter, 10s. 3d. Rye, 5s. Pease, 5s. Beans, 5s. Barley 5s. Beer or begg, 5s. Oats, 5s. Wheatmeal and flour, the cwt. 5s. Indian corn or maize, the quarter, 5s. Oatmeal, the boll, containing 140lb. avoirdupoise, or 128lb. Scotch troy, 5s. Fish, viz. stock fish, the 120, 2s. 6d. not otherwise enumerated or described, the cwt. 4s. Flax, rough or undressed, 15s. Flax seed. or linseed; see seed. Galls, 1l. Granilla, the lb. 5s. Indian corn, or maize; see corn. Iron, viz. pig iron, the ton, containing 20 cwt. 1l. 10s. Isinglass, the cwt. 5l. Lemons, the 1000, 1l. Linseed; see seed. Madder, viz. mull, the cwt. 1s. 3d. Root, 12s. of any other sort, 10s. Oak bark; see bark. Oakum, the cwt. 4s. Oatmeal; see corn. Oats; see corn. Oils, viz. seed oil of all sorts, the ton, (containing 252 gallons) 10l. 10s. Oranges, the 1000, 1l. Pease; see corn. Pig iron; see iron. Pork, the cwt. 17s. 6d. Prize goods, viz. goods, wares, and merchandise, taken and condemned as prize, not being of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England trading to the East Indies, and not being particularly enumerated or charged with duty in this table, for every 100l. of the value thereof, 20l. Rye; see corn. Safflower, the cwt. 1l. Salt, the bushel (containing 56lbs.) 2s. Saltpetre, the cwt. 1l. 8s. Seed, viz. linseed, or flax-seed, the bushel, 1s. 6d. Seed oil; see oil. Spanish wool; see wool. Tow, the cwt. 5s. Valonia, the cwt. 5s. Verdigris, viz. common, the lb. 6d. crystalized, 1s. Wheat; see corn. Wheatmeal and flour; see corn. Wool, viz. Spanish wool, the cwt. 5l. Yarn, viz. raw linen yarn made of flax, 10s.

For the several exemptions from the duties charged in this table, whether relating to goods exported, or to countries or places to which goods shall be exported, see the act to which this table is annexed.

TABLE (C.)

A TABLE of duties of customs payable on the exportation of goods, wares, and merchandise, being of the growth, produce or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England trading to the East Indies, not having been imported by the said company, and which shall be exported from Great Britain, except as is provided in the act to which this table is annexed.

Annotto, the cwt. 4*l*. Arabic gum; see gum. Arrack; see spirits. Bandanna handkerchiefs; see handkerchiefs. Barilla, the cwt. 8*s*. Bark, viz. Jesuits bark, or Cortex Peruvianus, the lb. 6*s*. Brandy; see spirits. Buffalo hides; see hides. Bull hides; see hides. Callicoes, viz. white, whether plain, flowered, or stitched, for every 100*l*. of the value, 25*l*.—printed, painted, stained, or dyed, for every 100*l*. of the value, 25*l*. Cassia lignea, the lb. 6*s*. China ware, or earthen ware, for every 100*l*. of the value, 25*l*. Cinnamon, the lb. 6*s*. Cloves, 3*s*. Cochineal, 7*s*. do. dust, 3*s*. 6*d*. Cocoa nuts, the cwt. 1*l*. Coffee, 1*l*. 8*s*. Copper, viz. copper in bricks, rose copper, cast copper, and copper in plates, the cwt. 2*l*. Cortex Peruvianus; see Jesuits bark in bark. Cotton manufactures, not otherwise enumerated or described, for every 100*l*. of the value, 25*l*. Cotton wool; see wool. Cotton yarn; see yarn. Cow hides; see hides. Dimity, viz. plain white dimity, for every 100*l*. of the value, 25*l*. Earthen ware; see China ware. Flax, rough or undressed, the cwt. 10*s*. Galls, the cwt. 1*l*. 5*s*. Ginger, the cwt. 7*s*. Granilla, the lb. 5*s*. Gum, viz. Arabic, the cwt. 10*s*. Senega, the cwt. 10*s*. Handkerchiefs of silk, printed, painted, stained, or dyed, each 1*s*. 6*d*. Hemp, rough or undressed, or any other vegetable substance of the nature and quality of undressed hemp, and applicable to the same purposes, the cwt. 15*s*. Hides, viz. buffalo, bull, cow, or ox hides, not tanned, tawed, or in any way dressed, the hide 3*s*. Jesuits bark; see bark. Indigo, the lb. Mace, the lb. Maddar root, the cwt. 15*s*. Manna, the lb. 6*d*. Molasses, the cwt. 5*s*. Muslins, plain, for every 100*l*. of the value, 25*l*. Nanquin cloths, for every 100*l*. of the value, 25*l*. Nutmegs, the lb. 5*s*. Oil, the oz. viz.

Of cinnamon, 2*s*. Of cloves, 2*s*. Of mace, 5*s*. Of nutmegs, 4*s*. Ox hides; see hides. Pepper, the lb. 3*d*. Prize goods, viz. goods, wares and merchandise, taken and condemned as prize, being of the growth, produce or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England, trading to the East Indies, and not particularly enumerated or charged with duty in this table, for every 100*l*. of the value thereof, 20*l*. Quicksilver the lb. 1*s*. Raw silk; see silk. Rhubarb, the lb. 2*s*. Rice, the cwt. 2*s*. Rum; see spirits. Safflower, the cwt. 1*l*. 7*s*. Saffron, the lb. 3*s*. Saltpetre, the cwt. 1*l*. 8*s*. Sena, the lb. 6*d*. Senega gum; see gum. Silk, viz. handkerchiefs; see handkerchiefs. Raw silk, the lb. 2*s*. 6*d*. Waste silk, the lb. 6*d*. Spirits, viz. Arrack, single, the gallon 1*s*. Double, the gallon 2*s*. Brandy, single, the gallon 8*d*. Double, the gallon 1*s*. 4*d*. Rum, single, the gallon 8*d*. Double, the gallon 1*s*. 4*d*. Of any other kind, single, the gallon 8*d*. Double, the gallon 1*s*. 4*d*. Sugar, viz. brown or muscovado, the cwt. 10*s*. White or clayed, the cwt. 14*s*. Tea, viz. black, the lb. 1*s*. Green, the lb. 2*s*. Tobacco, the lb. 1½*d*. Waste silk; see silk. Wool, viz. cotton wool, the lb. 9*d*. Yarn, viz. cotton yarn, the lb. 2*s*. Goods, wares, or merchandise, not particularly enumerated or described in this table, being prohibited to be worn, used, or consumed in Great Britain, for every 100*l*. of the value, 25*l*. All goods, wares, and merchandise, of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the united company of merchants of England trading to the East Indies, not particularly enumerated or described in this table, and not having been imported by the said company, for every 100*l*. of the produce and amount of those duties of customs imposed by the 43 Geo. iii. cap. 68. on such goods, wares, or merchandise respectively, when imported by the said company, which are due and payable when the same are taken out of the warehouse, for the purpose of being used or consumed in Great Britain 40*l*.

For the several exemptions from the duties charged in this table, whether relating to goods exported, or to countries or places to which goods shall be exported, see the act to which this table is annexed.

GEORGE R.

Instructions to the commanders of our Ships of War and Privateers. Given at our Court at Windsor, the 11th Day of April, 1808, in the forty-eighth Year of our Reign.

Our will and pleasure is, that you do not interrupt any neutral vessel laden with lumber and provisions, and going to any of our colonies, islands, or settlements, in the West Indies, or South America, to whomsoever the property may appear to belong, and notwithstanding such vessel may not have regular clearances and documents on board; and in case any vessel shall be met with, and being on her due course to the alleged port of destination, an endorsement shall be made on one or more of the principal papers of such vessel, specifying the destination alleged, and the place where the vessel was so visited; and in case any vessel so laden shall arrive and deliver her cargo at any of our colonies, islands or settlements aforesaid, such vessel shall be permitted to receive her freight, and to depart, either in ballast, or with any goods that may be legally exported in such vessel, and to proceed to any unblockaded port, notwithstanding the present hostilities, or any future hostilities which may take place; and a passport for such vessel may be granted to the vessel by the governor, or other person, having the chief civil command of such colony, island, or settlement.

G. R.

ANNO QUADRAGESIMO OCTAVO

GEORGII III. REGIS.

CAP. XXXIV.

An Act to prohibit, until the end of the next Session of Parliament, the exportation of Cotton Wool from Great Britain.
[April 14, 1808.]

WHEREAS it is expedient to prohibit, for a limited time, the exportation of cotton wool from Great Britain, except in the manner hereinafter mentioned: be it therefore enacted by the king's most excellent majesty, by and with

the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same. That from and after the passing of this act, no person or persons whatever shall directly or indirectly export, carry, or convey, or cause or procure to be exported, carried, or conveyed out of or from any port or place in Great Britain, or shall load or lay on board, or cause or procure to be laden or laid on board, in any ship or other vessel or boat, any cotton wool, in order to be carried, exported or conveyed out of any such port or place, except to Ireland, and also except as herein after is provided.

II. Provided always, and be it further enacted, That it shall be lawful for his majesty, by any license under his royal sign manual, to authorize any person to export from Great Britain for his or their own account, or for account of any subject or subjects of any state in amity with his majesty, any cotton wool, under such regulations, restrictions, and securities, as may be specified in the said license.

III. And be it further enacted, That all cotton wool which shall be so exported, carried, or conveyed in or laid on board any ship or other vessel or boat, in order to be exported, carried, or conveyed out of Great Britain, contrary to this act, shall be forfeited; and that every offender therein shall forfeit also the sum of forty shillings for every pound weight of such cotton wool which shall be so exported, carried, or conveyed, or so laden in or laid on board any ship or other vessel or boat, in order to be exported, carried or conveyed out of Great Britain; and also the ship, vessel or boat, wherein the same shall be exported, or in or upon which the same shall be laden or laid in order to be exported, together with her guns, furniture, ammunition, tackle, and apparel, shall be forfeited; and the same respectively may be seized by any officer or officers of the customs.

IV. Provided always, and be it further enacted, That nothing in this act contained shall extend to prevent any cotton wool being carried coast wise, upon any certificate which shall be directed to be given by the commissioners of the customs in that behalf.

V. And be it further enacted, That all penalties and forfeitures, created and incurred by this act, shall and

may be sued for, prosecuted, recovered, and disposed of, in such manner, and by such ways, means, and methods, as any penalties incurred on any goods, ships or vessels, forfeited for any offence against the laws of customs, may now be legally sued for, prosecuted, recovered, and disposed of; and the officer or officers, concerned in seizures or prosecutions under this act, shall be entitled to and receive such share of the produce arising from the seizures, as they are now by law entitled to upon prosecution of seizures for unlawful importation, and to such share of the produce arising from any pecuniary fine or penalty, or compensation, paid for any offence against this act, as they are now by any law or regulation entitled to upon prosecution for pecuniary penalties.

vi. And be it further enacted, That all personal actions and suits, indictments, informations, and all prosecutions and proceedings whatsoever, which have been or shall hereafter be prosecuted or commenced against any person or persons, for having refused to receive any entry or entries for the exportation of any cotton wool, or to clear out any ship or vessel laden with cotton wool intended to be exported, before the passing of this act, are and shall be discharged and made void by virtue of this act; and that if any action or suit shall be prosecuted or commenced against any person or persons, for or by reason of any such act, matter or thing, he, she, or they may plead the general issue, and give this act and the special matter in evidence; and if the plaintiff or plaintiffs in any action or suit, so to be prosecuted or commenced, shall become nonsuited, or forbear further prosecution, or suffer discontinuance, or if a verdict pass against such plaintiff or plaintiffs, the defendant or defendants shall recover his, her, or their double costs; for which he, she, or they shall have the like remedy, as in cases where the costs by law are given to the defendant.

vii. And be it further enacted, That this act may be altered, amended, or repealed, by any act or acts to be made in this present session of parliament.

viii. And be it further enacted, That this act shall continue and be in force until the end of the next session of parliament.

ANNO QUADRAGESIMO OCTAVO
GEORGH III. REGIS.

CAP. XXXVII.

An Act for making valid certain Orders in Council, and Warrants of the Commissioners of the Treasury, for the entry and warehousing of certain Goods imported in neutral Vessels, and for indemnifying all Persons concerned therein ; for the remitting of Forfeitures in certain Cases ; and for enabling his Majesty to allow, during the continuance of Hostilities, and until two months after the commencement of the next Session of Parliament, the importation of Goods from Countries from which the British Flag is excluded, in any vessels whatever. [April 14, 1808.]

WHEREAS several neutral vessels, bound to ports on the continent of Europe, from which the British flag has been excluded, have arrived in the ports of the united kingdom, having been warned or brought into such ports in consequence of his majesty's orders in council for that purpose, and parts of the cargoes of such vessels have been admitted to entry for home consumption, or warehoused for exportation ; and other parts of such cargoes, consisting of goods the growth, produce, or manufacture of countries within the limits of the charter granted to the united company of merchants of England, trading to the East Indies, not imported by the said company, have been warehoused for exportation only : and whereas, in consequence of the late events in Portugal, wine and other commodities have been brought from the dominions of the crown of Portugal in vessels not owned and navigated according to law, and have been admitted to entry or warehoused in the same manner, and subject to the same duties only, as if the same had been imported in British-built vessels, owned and navigated according to law : and whereas such goods have been so entered and warehoused in obedience to orders of council, and warrants of the commissioners of his majesty's treasury, which it has been deemed expedient, under the circumstances, to issue for such purposes : which orders

and warrants, and the proceedings thereupon, were not authorized by law ; but it is expedient, under the circumstances, that the same should be authorized by act of parliament ; and it is also expedient that the importation of goods from countries from which the British flag is excluded, shall be allowed, for a limited time, in any vessels : be it therefore enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That all such importations, admissions to entry, warehousing for home consumption, or for exportation, and securing in warehouses goods of the produce, or manufacture of places within the limits of the charter granted to the East India company for exportation only ; and also all importations and admissions to entry, and warehousing of goods and commodities from the dominions of the crown of Portugal, which have been made as aforesaid, before the passing of this act, whether under orders in council, or by warrants of the commissioners of the treasury, shall be deemed and taken good in law ; and all persons concerned in advising, issuing, or carrying the same into execution, shall be and are hereby indemnified accordingly ; any thing in any act of parliament to the contrary notwithstanding ; and no vessels, goods or commodities which have been admitted to entry, or imported, or warehoused, or secured under any such order or warrant, shall be subject to any forfeiture, or the owner thereof be subject to any penalty by reason thereof.

II. And be it further enacted, That it shall be lawful for the importers, proprietors, or consignees of any goods or commodities that may have been, or which shall be brought into any port of the united kingdom, in any ship or vessel which shall have come in, in consequence of any warrant under the said orders in council, or in any ship or vessel which shall have sailed from any port or place within the respective limits enumerated in his majesty's orders in council of the 25th day of November, 1807, before the respective days specified in the said order, on or after which days the vessels sailing from such ports or places, are to be deemed to have received notice of the aforesaid order of the 11th day of November, 1807, duly to enter and land any such goods or commodities, either

for the purpose of securing the same in warehouses for exportation or on payment of the full duties of customs and excise due thereon, as the case may warrant ; and that no ship or vessel so arriving as aforesaid shall be liable to forfeiture, or the owners or proprietors thereof to any penalty by reason of such ship or vessel not being built, owned or navigated according to law, or not being in any other respect legally authorized to import into this kingdom the goods or commodities of which the cargo shall consist, nor shall any goods or commodities being part of the cargo of any such ship or vessel so brought in as aforesaid, be liable to forfeiture, or the owners thereof to any penalty by reason of any such goods or commodities being in packages not allowed by law, or for being in any other manner prohibited to be imported into this kingdom, any law, custom or usage to the contrary notwithstanding.

III. And be it further enacted, That it shall be lawful for his majesty by order in council or license, and in Ireland for the lord lieutenant or other chief governour or governours, and the privy council of Ireland by order in council or license, when and as often as the same shall be judged expedient, to permit during the continuance of hostilities and until two months after the commencement of the next session of parliament, any such goods, wares or merchandise as shall be specified in such order in council or license, to be imported into any port of Great Britain or Ireland respectively, from any port or place from which the British flag is excluded, in any ship or vessel belonging to any country, whether in amity with his majesty or not ; any law in force in the united kingdom, or in Great Britain or Ireland respectively, to the contrary in any wise notwithstanding.

IV. Provided always, That nothing herein contained shall extend, or be construed to extend, to exempt from seizure any goods or commodities which shall be unshipped, or attempted to be unshipped, for the purpose of being illegally conveyed on shore, or before due entry shall have been made thereof.

V. And be it further enacted, That this act may be altered, amended or repealed, by any act or acts to be passed in this session of parliament.

Mr. Canning to Mr. Pinkney.

[See Vol. VII. p. 41.]

ANNO QUADRAGESIMO OCTAVO

GEORGH III. REGIS.

CAP. LXXXV.

An Act to regulate the Trade between Great Britain and the United States of America, until the end of the next Session of Parliament. [June 23, 1803.]

WHEREAS it is expedient to permit goods, wares and merchandise being of the growth, produce and manufacture of the United States of America, to be imported directly from thence into Great Britain, in British or American ships or vessels, subject to such duties only as are payable on the like commodities when imported from other foreign countries; may it therefore please your majesty that it may be enacted; and be it enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that from and after the end of the present session of parliament, it shall and may be lawful for any person or persons, to import into Great Britain directly from any of the territories of the United States of America, in British built ships or vessels, owned, navigated and registered according to law, or in ships or vessels built in the countries belonging to the United States of America, or any of them, or in ships or vessels taken by any of the ships or vessels of war, belonging to the government or any of the inhabitants of the said United States, having commissions or letters of marque and reprisal from the government of the said United States, and condemned as lawful prize in any court of admiralty of the said United States, of which condemnation proof shall be given to the commissioners of his majesty's customs, or any four or more of them, in England or Scotland respectively, and owned by the subjects of the said United States or any of them.

and whereof the master and three fourths of the mariners at least are subjects of the said United States, any goods, wares, or merchandise, the growth, production, and manufacture of the said United States, which are not prohibited by law to be imported from foreign countries, and to enter and land such goods, wares, and merchandise, upon payment of the duties, and subject to the conditions and regulations herein after mentioned; any law, custom, or usage, to the contrary in any wise notwithstanding.

II. And be it further enacted, That all such goods, wares, and merchandise imported into Great Britain, either in such ships or vessels, or in British built ships or vessels, owned, navigated and registered, according to law, shall and may be entered and landed upon payment of such duties of customs and excise, and no higher, except as herein after is provided, as are payable on goods, wares and merchandise of the like denomination or description upon their importation into Great Britain from any other foreign country; and in cases where different duties are imposed upon goods, wares, and merchandise of the like denomination or description, imported from different foreign countries, then upon payment of the lowest duties which by law are now required to be paid on the importation of any such goods, wares, or merchandise from any other foreign country: provided always, that where any goods, wares, or merchandise are imported from the said United States, in any ship or vessel not being British built, owned, navigated, and registered according to law, such goods, wares, and merchandise shall be subject and liable to the duties due and payable on similar articles when so imported from any other foreign country.

III. And be it further enacted, That any tobacco, being the growth or production of any of the territories of the United States of America, may be imported into Great Britain in British or American ships or vessels, owned and navigated as herein before required, upon payment of the same duties of customs and excise as are now paid on tobacco imported by British subjects from any British colony or plantation in America; and that any snuff, being the production and manufacture of any of the said territories, may be imported into Great Britain in manner before mentioned, upon payment of such duties of customs and excise, as snuff, being the production or manufacture of

Europe imported from Europe, is subject to, and may be warehoused and again exported, such tobacco and snuff to be subject respectively, nevertheless, to all and singular the regulations, restrictions, penalties, and forfeitures relating to the importation and exportation thereof, or in any other respect relating thereto, of an act made and passed in the twenty-ninth year of the reign of his present majesty, entitled, "An act for repealing the duties on tobacco and snuff, and for granting new duties in lieu thereof;" and of another act, passed in the thirtieth year of his present majesty's reign, entitled, "An act to explain and amend an act, made in the last session of parliament, entitled "An act for repealing the duties on tobacco and snuff, and for granting new duties in lieu thereof;" or of any other act since made relating thereto: provided always, that such tobacco shall be accompanied by a manifest as by law required.

iv. And be it further enacted. That all goods, wares, and merchandise, so imported from the United States of America, shall, upon the exportation thereof from Great Britain, be entitled to the same drawbacks as are by law allowed upon the exportation of goods, wares, and merchandise, of the like denomination and description when exported from Great Britain; and that there shall be allowed and paid the same drawbacks and bounties on goods, wares and merchandise, exported from Great Britain to the territories of the said United States, or any of them, as are allowed by law upon the exportation of goods, wares, or merchandise, of the like denomination or description, to any of the islands, plantations, or colonies, belonging to the crown of Great Britain, in America: Provided always, that nothing in this act contained shall extend, or be construed to extend, to repeal or in any wise to alter the duties of package, scavage, balliage or portage, or any other duties payable to the mayor and commonalty and citizens of the city of London, or to the lord mayor of the said city for the time being, or to any other city or town corporate within the kingdom of Great Britain, or to repeal or in any wise to alter any special privilege or exemption to which any person or persons, bodies politick or corporate, is or are now entitled by law, but the same shall be continued as heretofore.

v. And be it further enacted, That the duties of customs and excise upon, for and in respect of any goods, wares or merchandise, imported into Great Britain from the said United States, by virtue and under the authority of this act, shall and may be respectively managed, ascertained, raised, levied, collected, answered, paid, recovered, allowed, appropriated and applied, in such and the like manner, and in or by any or either of the means, ways or methods, by which the duties of customs and excise and drawbacks of duties of customs and excise upon goods, wares or merchandise, of the same sorts or kinds respectively, imported from, or exported to any other foreign country, were or might be managed, ascertained, raised, levied, collected, answered, paid, recovered, allowed, appropriated and applied, and the goods, wares or merchandise, so by this act respectively made liable to the payment of, or chargeable with duties of customs and excise, or so entitled to drawback of duties of customs and excise upon the importation thereof into, or exportation thereof from Great Britain, or any other account whatever, shall be, and the same are hereby made subject and liable to all and every the conditions, regulations, rules, restrictions and forfeitures, to which goods, wares, or merchandise in general, and also all and every the special conditions, rules, restrictions, regulations, and forfeitures respectively, to which the like goods, wares, or merchandise respectively, were subject and liable by any act or acts of parliament in force on and immediately before the passing of this act, respecting the revenues of customs and excise; and all and every pain, penalty, fine or forfeiture, of any nature or kind whatever, for any offence whatever committed against or in breach of any act or acts of parliament in force on and immediately before the passing of this act, made for securing the revenue of customs and excise, or for the regulation or improvement thereof, and the several clauses, powers, and directions therein contained, shall and are hereby directed and declared to extend to, and shall be respectively applied, practised, and put in execution for and in respect of the several duties of customs and excise, and drawbacks of duties of customs and excise hereby charged and allowed, in as full and ample manner, to all intents and purposes whatever, as if all and every the said acts, clauses, provisions, powers, directions, fines, pains, penalties or for-

feitures were particularly repeated and re-enacted in the body of this act.

vi. Provided always, and be it further enacted, That it shall and may be lawful for his majesty by and with the advice of his privy council by any order in council or by any proclamation made for that purpose, to cause the provisions of this act to be suspended for such time as his majesty, his heirs and successors, may deem expedient and necessary ; any thing in this act to the contrary notwithstanding.

vii. And be it further enacted, That this act shall continue in force to the end of the next session of parliament.

By the Honourable Sir Alexander Cochrane, K. B. Rear Admiral of the Red, and Commander in Chief of His Majesty's Ships and Vessels employed and to be employed at Barbadoes, the Leeward Islands, &c. &c.

WHEREAS an intimation has been received from the right honourable lord viscount Castlereagh, one of his majesty's principal secretaries of state, that the strictest naval blockade is to be established over the Leeward French Caribbean islands. The several captains, commanders and commanding officers under my orders, are hereby authorized and directed, to stop all neutral vessels destined for any of the ports of the said islands ; and if they shall appear to be ignorant of the existence of the blockade, and have no enemy's property on board, the masters of such neutral vessels shall be apprized thereof, and warned not to proceed to such ports, and a notice written to that effect upon one or more of the principal ship papers.

But if a neutral vessel shall appear to have been so warned, or to be otherwise informed of the existence of the blockade, or to have sailed from her last clearing port after it may be reasonably supposed that this notification might have been made publick there, and yet be found attempting, or intending to enter either of the ports of the said islands, such vessel shall be seized and sent into port for legal adjudication. And with respect to neutral vessels coming out of said ports having any colonial produce, goods or merchandise on board, appearing to have been laden after knowledge of the blockade, such vessel shall,

in like manner, be seized and sent in for legal adjudication.

Given on board the *Belleisle*, Carlisle bay, Barbadoes, October 14, 1808.

ALEXANDER COCHRANE.

By command of the Rear Admiral,

JOHN S. TRACY.

FRENCH DECREES, &c.

TRANSLATION.

Copy of the Decree of the National Convention of the 9th May, 1793, 2d Year of the Republic of France.

THE National Convention, after having heard the report of their marine committee, considering that the flag of neutral powers is not respected by the enemies of France; that two cargoes of flour arrived at Falmouth in Anglo-American vessels, and purchased before the war for the service of the marine of France, have been detained in England by the government, who would not pay for them, except at a price below that at which flour had been sold:

That a vessel from Papembourg, called the *Therisia*, commanded by captain Hendrick Kob, laden with divers effects belonging to Frenchmen, has been conducted to Dover, the 2d of March last, by an English cutter:

That a privateer of the same nation has carried into the same port of Dover, the 18th of the same month, the Danish ship *Mercury*, Christianlund, captain Freuchen, expedited from Dunkirk on the 17th with a cargo of wheat for Bordeaux:

That the ship *John*, captain Shklely, laden with near six thousand quintals of American wheat, bound from Falmouth to St. Mala, has been taken by an English frigate, and conducted to Guernsey, where the agents of the government have simply promised to pay the value of the cargo, because it was not on account of the French:

That one hundred and one French passengers of different professions, embarked at Cadiz by order of the Spanish minister, in a Genoese ship called the *Providence*, captain Ambrose Briasco, bound to Bayonne, have been shamefully pillaged by the crew of an English privateer:

That the divers reports, which are successively made by the maritime cities of the Republick, announce that these same acts of inhumanity and injustice are daily multiplied and repeated with impunity throughout the seas :

That, under such circumstances, all the rights of nations being violated, the French people are no longer permitted to fulfil, towards the neutral powers in general, the vows they have so often manifested, and which they will constantly make, for the full and entire liberty of commerce and navigation—decree as follows :

ART. I. The French ships of war and privateers may arrest, and bring into the ports of the Republick, the neutral vessels which shall be laden, wholly or in part, either with articles of provision belonging to neutral nations, and destined for an enemy's port, or with merchandises belonging to an enemy.

II. The merchandises belonging to an enemy shall be declared good prize, and confiscated to the profit of the captors : the articles of provisions belonging to neutral nations, and laden for an enemy's port, shall be paid for according to their value in the place to which they were destined.

III. In all cases the neutral vessels shall be released as soon as the unlading of the articles of provision arrested, or of the merchandise seized, shall have been effected. The freight thereof shall be paid at the rate which shall have been stipulated by the persons who shipped them. A just indemnification shall be allowed, in proportion to their detention, by the tribunals who are to have cognizance of the validity of the prizes.

IV. These tribunals shall be bound to transmit, three days after their decision, a copy of the inventory of the said articles of provision or merchandise, to the minister of marine, and another to the minister for foreign affairs.

V. The present law, applicable to all the prizes which have been made since the declaration of war, shall cease to have effect, as soon as the enemy powers shall have declared free and not seizable, although destined for the ports of the Republick, the articles of provision belonging to neutral nations, and the merchandises laden in neutral vessels, and belonging to the government or citizens of France.

Decree of the National Convention of the 23d May, which declares that the Vessels of the United States are not comprehended in the dispositions of the Decree of the 9th of May.

THE National Convention, after having heard the report of their committee of publick safety, wishing to maintain the union established between the French Republick and the United States of America, decree, that the vessels of the United States are not comprehended in the dispositions of the decree of the 9th of May, conformably to the 16th article of the treaty concluded on the 6th of February, 1778.

True copy.

LE BRUN.

NOTE. It appears that on the 28th May, the Convention passed a decree which so far repealed that of the 23d May, as to place in a state of provisional sequestration the property seized under the decree of the 9th May.

No copy of the decree of the 28th May is to be found in the department of state.

TRANSLATION.

Copy of the Decree of the National Convention of the 1st of July, 1793, 2d Year of the French Republick, which exempts from the dispositions of the Decree of the 9th May, 1793, the Vessels of the United States.

THE Convention, after having heard the report of the committee of publick safety, wishing to maintain the union established between the French Republick and the United States of America, decrees, that the vessels of the United States are not comprised in the dispositions of the decree of the 9th May, conformably to the 16th article of the treaty concluded the 6th of February, 1778.

Certified conformable to the original.

DEFORGUE.

NOTE. It appears that on the 27th July, the convention again put in force the decree of the 9th May ; but no copy of the act by which this was done is to be found in the department of state.

Extract of the Register of Arrests of the Committees of Public Safety, Finance, and Supplies. 25th Brumaire, 3d year of the Republic, Nov. 18, 1794.

THE committee of public safety, commerce, and supplies, order as follows :

ART. I. The vessels of the United States of America, and those of other neutral powers, shall be permitted to enter freely into the ports of the Republick, and retire from them when they please : Nor shall it be permitted to any constituted authority to retard their departure, or to oblige the captains to sell their cargoes against their will.

II. When the captains or owners of neutral vessels are disposed to sell their cargoes to the publick, they shall be paid for them according to the bargain which they make.

III. It is enjoined to all the commandants of naval armaments, fleets, divisions, and squadrons of the Republick, to respect, and to cause to be respected, upon their responsibility, in favour of the neutral and allied powers, the rights of nations and the stipulations of treaties, conforming themselves strictly to the terms of the decree of the convention of the 27th of July, 1793.

IV. In consequence, they are expressly prohibited from turning these vessels from their course, taking from on board of them their captains, sailors, or passengers, other than soldiers or sailors actually in the service of an enemy power ; or of seizing the effects or merchandise which shall be found in them.

V. Are excepted from the prohibition contained in the preceding article—

1st. Merchandises belonging to the enemies of the Republick, until such enemy powers shall have declared that the merchandises of the French shall be free on board neutral vessels.

2d. Such merchandises of the neutral powers also as are deemed contraband of war, and under which are com-

prised all arms, instruments and munitions of war, and every kind of merchandise and other effects destined for an enemy's port actually seized or blockaded.

[VI. VII. VIII. and IX. regulate the manner of proceeding where neutral vessels are brought in, upon a presumption of having enemy's goods on board.]

x. The commission of marine shall present without delay a statement of the individuals, born subjects of the powers with whom the Republick is at war, who were taken before the present day upon neutral vessels, that particular arrets may be taken in each case.

xi. The indemnities which are due to the captains of neutral powers who were detained by an embargo at Bordeaux, shall be liquidated without delay by the commission of marine and colonies, conformable to an arret of the committee of publick safety of the 17th of Germinal; and this commission shall render an account in the course of ten days, of the actual state of these demands.

xii. The commission of marine is specially charged to receive and adjust the accounts which shall be presented to it by an agent of the United States, for such supplies as the Americans have furnished to the administration of St. Domingo; and it shall take the necessary measures to procure to the parties interested the most prompt justice, and shall also present to the committees of publick safety, of finance, commerce and supplies, the result of its operations in these respects.

xiii. The commission of foreign relations is instructed to deliver a copy of this arret to the minister plenipotentiary of the United States of America, in answer to his memorial of the 9th of Fructidor (September 3d) last.

MERLIN, THURIOT,
CAMBACERES, &c.

Extract of the Register of Arrets of the Committee of Publick Safety, of the 14th Nivose, third year of the Republick, [January 3, 1795.]

THE committee of publick safety, considering that, by the twenty-third article of the treaty of commerce between France and the United States of America, bearing date on the 6th of February, 1778, it is agreed :

1st. That the people of France and America may navigate reciprocally, in complete safety, with their vessels, and without exception as to the owners of the merchandise charged upon such vessels, or as to the ports from whence they come, and although the power for which they be destined be actually at war, or become afterwards the enemy of the one or the other contracting party: that they may equally navigate, in full safety, with their vessels and merchandise, and frequent the places, ports, and harbours of the enemies of both nations, or of either, and carry on trade, not only from the port of an enemy to that of a neutral power, but also from different ports of the same enemy: 2d. That free vessels shall make free goods, and that any thing shall be considered as free, which shall be found on board the vessels of either contracting nation, although it belong, in whole or in part, to the enemies of either the one or the other, contraband always excepted: 3d. That the same liberty shall be extended to those who are found on board free vessels, although they be the enemies of either the one or the other contracting nation; and, in consequence, that such persons shall not be taken from such vessels, unless they be soldiers in the actual service of the enemy:

Considering that the crimes of England having given to the war of despotism against liberty a character of injustice and atrocity, without example in the annals of mankind, the National Convention found itself obliged, in using the right of reprisal, to decree, on the 9th of May, 1793, that the vessels of war and corsairs of the Republick might take, and conduct into the ports of France, such vessels of the neutral powers as they should find charged, in whole or in part, with provisions belonging either to such powers, or the enemies of France. Soon afterwards, however, and on the 1st of July, 1793, the convention restored in full vigour the dispositions of the treaty above mentioned, of the 6th of February, 1778, but which were again revoked by a decree of the 27th of the same month, in respect to provisions and merchandises belonging to an enemy; upon which latter ground it has stood since, leaving the provisions and merchandises of neutral powers in such vessels free: in regard to which the French government has not to reproach itself with having waited to show itself just and loyal, that the cabinet of London might revoke, as it did a long time

afterwards, the order, given by it the preceding year, to seize all neutral vessels carrying provisions or merchandises into France :

Considering that since, and notwithstanding the notoriety with which this cabinet continues to insult and violate the rights of neutral nations, by causing their vessels charged with merchandise, destined for the ports of France, to be seized ; yet the National Convention has enjoined it, by the 7th article of the law of the 13th of this month, upon all officers, civil and military, strictly to observe, in all their dispositions, the treaties which unite France with the neutral powers of the ancient continent, as likewise with the United States of America, declaring all articles of a contrary import in any other law to be absolutely null and void.

Fully therefore to carry into effect the said law, according to its true intent and meaning, it is hereby ordered—

ART. I. The commission of marine and of the colonies, shall notify without delay, to all the commanders of armed vessels, divisions and squadrons, the article abovementioned of the law of the 13th of this month ; and in consequence that they are to consider the 5th article of the arret of the 25th Brumaire last, which authorized the seizure of merchandises belonging to an enemy, on board neutral vessels, until such enemy shall have declared French property on board such vessels free, as now null and void.

II. The merchandises called contraband, though belonging to a neutral power, shall continue subject to seizure.

III. All arms, instruments and munitions of war of every kind, horses and their equipage, and all kind of merchandises and other effects destined for an enemy's port actually blockaded or besieged, shall be deemed contraband of war.

CAMBACERES,
CARNOT,
PRIEUR,
A. DUMONT.

CHAZAL,
MAREC,
PELET,

Decree of the Executive Directory, on the conduct of the Flag of the French Republick towards Neutral Vessels. 14 Messidor, Year 4. (July 2, 1796.)

THE executive directory, considering that if it belongs to French loyalty to respect the treaties or conventions which assure to neutral or friendly powers the commercial advantages of which the result ought to be common to the contracting powers, these same advantages, if they are turned to the benefit of our enemies, either through the feebleness of our allies or of neutrals, through fear from views of interest, or from any other motive, would provoke indeed the inexecution of the articles by which they should be stipulated, decrees what follows :

It shall be notified without delay to all the neutral or allied powers, that the flag of the French Republick shall be used against neutral vessels, be it for the purpose of confiscation, search or detention (*visite ou prehension*) in the same manner that they suffer the English to use theirs in regard thereto.

The minister of foreign relations is charged with the execution of the present decree which shall not be printed.

Decree of the Executive Directory concerning the Navigation of Neutral Vessels loaded with merchandise belonging to the Enemies of the Republick, and the Judgment on the Trials relative to the Validity of Maritime Prizes. 12 Ventose, Year 5. (March 2, 1797.)

THE executive directory having examined the law of the 9th May, 1793, which, forasmuch as the flag of neutral powers not being respected by the enemies of the French Republick, and all the laws of nations being violated to her prejudice, it is no longer permitted to the French people to fulfil, towards these powers in general, the wish which it has so often manifested, and which it will constantly form for the full and entire liberty of commerce and of navigation,—orders, among other things :

1st. That the French vessels of war and privateers may stop and carry into the ports of the Republick, neutral ves-

sels which may be found loaded entirely, or in part, with merchandise belonging to the enemy.

2d. That the merchandise belonging to the enemy shall be declared good prize, and confiscated for the benefit of the captors.

3d. That in all cases the neutral vessel shall be released the moment the unloading of the merchandise seized shall have been effected; that the freight shall be paid at the rates which shall have been stipulated by the freighters, and a just indemnity shall be allowed for their detention by the tribunals, whose duty it may be to take cognizance of the validity of the prizes.

4th. That these tribunals shall moreover be bound to transmit, three days after their judgment, a copy of the inventory of the merchandise to the minister of the marine, and another copy to the minister of foreign affairs.

5th. That the present law, applicable to all prizes which have been made since the declaration of war, shall cease to have its effect when the enemy powers shall have declared free and not seizable, though destined for the ports of the Republick, the merchandise loaded on board neutral vessels which shall belong to the French government or its citizens.

Having likewise examined the law of the 27th July, 1793, which, in maintaining that of the 9th May preceding, here above recited, orders that it should have its full and entire execution, and that in consequence all other regulations which may be contrary to it are and remain repealed, a repeal which evidently comprehends the law of the first of the same month of July, by which the vessels of the United States of America had been excepted from the law of the 9th May, in conformity to the 5th article of the treaty of the 6th February, 1778.

Having also examined the 7th article of the law of the 13th Nivose, 3d year, [3d January, 1795,] which enjoins on all the agents of the Republick, on all the commandants of the armed force, on the officers civil and military, to cause to be respected and observed in all their arrangements, the treaties which unite France to the neutral powers of the ancient continent and to the United States of America, and adds that no blow shall be aimed at those treaties, and that all regulations which may be contrary to them are annulled: considering that this last law does not

derogate from that of the 9th May, 1793, save only, in favour of those neutral powers whose treaties actually subsisting with the French Republick, are contrary to its regulations, that consequently it is important for the information as well of the commandants as the armed force of the Republick, and of the vessels commissioned by it, as of the tribunals charged with deciding on the validity of the prizes, to take measures for preventing either that it should be supposed that treaties existed, which never were made, or that treaties concluded for a limited time which is expired, should be considered as still being in force, or that those which have been modified since their formation should be considered as yet requiring a literal execution : that to this last description belongs particularly, the treaty of amity and commerce, concluded the 6th of February, 1778, between France and the United States of America : that in effect by the second article of this treaty, France and the United States of America, mutually engage not to grant any particular favour to other nations in relation to commerce or navigation, which does not become forthwith common to the other party, and that it is added by the same article, that this other party shall enjoy the favour gratuitously, if the grant is gratuitous, or on making the same compensation if the grant is conditional ; that thus the provision stipulated in favour of England, by the treaty of amity, commerce and navigation, concluded at London the 19th November, 1794, between that power and the United States of America, are considered to have been in behalf of the French Republick itself, and in consequence modifying, on the points where they differed, the treaty concluded 6th February, 1778 ; that it is agreeable to these provisions that the French government has declared by its decrees of the 14th and 28th Messidor, 4th year, 2d and 16th July, 1796, as it is likewise forced to do at present, that it will use the just measures of reciprocation, which it had a right to exercise in that respect in every thing which has a relation to the circumstances of the war, as also to the political, commercial, and maritime interests of the French Republick ; that consequently it is necessary to settle, by reconciling the treaties of the 6th February, 1778, and the 19th November, 1794, every doubt as to the case where this right of reciprocation ought to be exercised.

Considering that there have been quite lately raised, as to the manner of stating the proofs of property in the ships and merchandise pretended to belong to neutrals, doubts and controversies which never would have taken place, if the provisions of the ancient regulations relative to this business had been better known, that it consequently is of importance to recite these provisions, and to cause to be executed the 5th article of the law of the 14th February, 1793, which has maintained them.

After having heard the minister of justice, of the marine and of the colonies, decrees what follows :

ART. I. The commissioners of the executive directory near the civil tribunals of the departments, shall take care that on the trials as to the validity of maritime prizes, no judgment shall be founded on the 7th article of the law of the 13th Nivose, 3d year, [2d January, 1795,] unless the minister of justice be previously consulted in conformity to the 3d article of the law of the 8th Floreal, 4th year, [27th April, 1796,] relative to the treaties, in virtue of which some neutrals might pretend to withdraw themselves by means of the first of these laws from the execution of that of the 9th May, 1793.

II. The minister of justice would consequently examine if the treaties appealed to still remain in force, or whether they have been modified since their adoption : he shall be furnished for this purpose by the minister of exterior relations with all the information (*renseignements*) of which he shall be in want, and he shall refer the same to the executive directory, as is prescribed by the law of the 8th Floreal, 4th year, [27th April, 1796.]

III. The executive directory reminds all French citizens, that the treaty entered into on the 6th of February, 1778, between France and the United States of America, has been, from the terms of its second article, in strict right (*de plein droit*) modified by that which was entered into in London on the 19th of November, 1794, between the United States of America and England. In consequence, agreeably to the 17th article of the treaty of London, of the 19th of November, 1794, all merchandise belonging to an enemy, or not sufficiently proven to be neutral, loaded under the American flag, shall be confiscated ; but the vessel, on board of which it shall have been found, shall be released, and returned to the proprietor. It is

enjoined on the commissioners of the executive directory to cause to be accelerated, by all the means in their power, the judgment on the trials which shall take place, either in relation to the validity of the capture of the cargo, or in relation to freights and demurrage.

iv. Agreeably to the 18th article of the treaty of London, of the 19th of November, 1794, there shall be added the following articles to those declared contraband by the 24th article of the treaty of the 6th of February, 1778, viz. wood for ship building, pitch, tar and rosin, copper in sheets, canvass, hemp and cordage, and every thing that serves, directly or indirectly, for the armament and equipment of vessels, except unwrought iron and fir plank. These several articles shall be confiscated, whenever they shall be destined, or when it is attempted to carry them, to the enemy.

v. Agreeably to the 21st article of the treaty of London, of the 19th of November, 1794, every individual known to be American, who holds a commission given by the enemies of France, as also every mariner of that nation, making a part of the crew of private or publick ships (*navires ou vaisseaux*) of the enemy, shall be, from that act alone, declared a pirate, and treated as such; without allowing him, in any case, to show that he had been forced by violence, menaces, or otherwise.

vi. In conformity to the law of the 14th February, 1793, the regulations of the 21st October, 1794, and of the 26th July, 1778, as to the manner of proving the right of property in neutral ships and merchandise, shall be executed according to their form and tenour.

In consequence every American vessel shall be a good prize, which has not on board a list of the crew (*rôle d'équipage*) in proper form, such as is prescribed by the model annexed to the treaty of the 6th February, 1778, a compliance with which is ordered by the 25th and 27th articles of the same treaty.

vii. It is enjoined on the commissioners of the executive directory to call the severity of the tribunals to the fraudulent manœuvres of every ship owner calling himself a neutral, American, or other, on board a vessel in which shall be found, as has frequently been done during the present war, either maritime papers (*papiers de mer*) in blank, though signed and sealed; or papers in form of let-

ters containing the signatures of individuals, in blank ; or of double passports or sea letters, which indicate different destinations to the vessel ; or double invoices, bills of lading, or any other ship papers which assign to the whole, or to a part of the same merchandise, different proprietors or different destinations.

VIII. From the regulations of the present decree, that of the 9th Frimaire last (29th November, 1795) concerning the freights and demurrage, is referred to what relates to the demurrage only.

The present decree shall be inserted in the bulletin of the laws. The ministers of the marine and of the colonies, of justice, and of foreign relations, are charged with its execution, each one in what concerns him.

Law which determines the Character of Vessels from their Cargo, especially those loaded with English Merchandise. 29 Nivose, Year 6, (Jan. 18, 1798.)

AFTER having heard the report of a special commission on the message of the executive directory of the 15th Nivose, relative to English merchandise :

Considering that the interest of the Republick requires the most prompt measures against all vessels which shall be loaded with it :

ART. I. The character of vessels, in what concerns their quality, as neutral or enemy, shall be decided by their cargo : in consequence, every vessel found at sea, laden in whole or in part with merchandise coming (provenants) from England or her possessions, shall be declared good prize, whoever may be the proprietor of these productions or merchandise.

II. Every foreign vessel, which shall during her voyage have entered a port of England, shall not be admitted into a port of the French Republick, save only when there is a necessity for her entering (de relache) in which case she shall be bound to leave the said port so soon as the cause of her entering it (de sa relache) shall have ceased.

Decree of the Executive Directory in Explanation of that of the 12th Ventose, 5th year, 2d March, 1797, concerning the Navigation of neutral Vessels, of the 28th Ventose, 7th Year, 18th March, 1799.

THE executive directory, having examined its decree of the 12th Ventose, 5th year, (2d March, 1797) concerning the navigation of neutral vessels loaded with merchandise belonging to the enemies of the Republick, and the judgment on the trials as to the validity of maritime prizes; considering that the 4th article of that decree, in what relates to the rôles d'équipages with which neutral vessels ought to be furnished, has had improper interpretations so far as concerns the rôles d'équipages of American vessels, and that it is time to do away the obstacles resulting therefrom, to the navigation of the vessels of that nation.

After having heard the minister of exterior relations, and the minister of justice, declare that by the fourth article of the said decree, it was not understood that the navigation of American vessels, relatively to the form of their rôles d'équipages, was subjected to other conditions, than those imposed on all neutrals by the 12th article of the ordinance of 1794, and by the 9th article of that of the 26th July, 1778.

The ministers of the marine and of justice, each in what concerns him, are charged with the execution of the present decree, which shall be inserted in the bulletin of laws.

Decree of the Executive Directory as to those who compose the Crews of the Vessels of the Enemies of France. [8 Brumaire, 7th Year, 29th October, 1799.]

THE executive directory, on the report of the minister of exterior relations, considering that the squadrons, privateers, and vessels of England and Russia, are in part manned by foreigners; considering that this violation is a manifest abuse of the laws of nations, and that the powers of Europe have not taken any measures to stop it,—decree:

ART. I. Every person, native (original) of friendly countries, allied to the French Republick, or neutral, holding a commission given by the enemies of France, or making part of the crews of the vessels of war, or other enemy vessels, shall, for that act alone, be declared a pirate, and treated as such, without being allowed in any case to allege that he was forced by violence, menaces, or otherwise.

II. The executive directory of the Batavian, Ligurian, Cisalpine and Roman Republicks, shall be informed of this measure.

III. The provisions contained in the first article shall be notified to the powers neutral or allied to the French Republick.

Decree of the Executive Directory on the mode of executing its Decree of the 8th Brumaire, 7th Year, (29th October, 1799,) concerning those who compose the Crew of enemy Vessels. 24 Brumaire, Year 7. (Nov. 14, 1799.)

ART. I. In execution of the 3d article of the decree of the executive directory of the 8th of this month, the allied or neutral powers shall be invited to take the necessary measures for recalling within a time, which shall be fixed, those mariners of their respective nations actually embarked on board the vessels of war, or other vessels, belonging to England.

II. The ambassadors, ministers, and envoys of the Republick, near the respective powers, shall receive particular instructions on this subject.

III. The period of the execution of the decree of the 8th Brumaire, shall be determined by a subsequent decree.

IV. The minister of exterior relations shall be charged to make arrangements with the minister of marine and the colonies for the execution of the present decree.

Law which repeals the 1st Article of that of 29th Nivose, 6th Year, Jan. 18, 1798, relative to maritime Cruising.

ART. I. The first article of the law of the 29th Nivose, 6th year, 18th January, 1798, relative to maritime cruising, is repealed.

The consuls of the Republick order, that the above law shall be published and executed, and that the seal of the Republick shall be affixed to it. Done at the national palace of the consuls of the Republick, the 23d Frimaire, 8th year, 13th December, 1800, of the Republick.

ROGER DUCOS,
BONAPARTE, SIEYES.

Decree of the Consuls of the Republick which puts in force the Ordinance of the 26th July, 1778, concerning the Navigation of neutral Vessels, 29th Frimaire, 8th Year, 19th December, 1800.

THE consuls having examined the law of the 23d Frimaire, 8th year, December 13, 1800, which repeals the 1st article of the law of the 25 Nivose, 6th year, January 14, 1798, relative to maritime cruising, considering that the repeal of that law necessarily renews that state of the law antecedently existing.

That this as fixed by the ordinance of the 26th July, 1778, is considered the most proper to conciliate the interests of the Republick with the rights of neutral powers; wishing to prevent on the part of French or neutral owners (armateur) errors or interpretations which shall counteract the views under which the law of the 29 Nivose, 6th year, 18th January 1798, has been repealed...decree what follows.

ART. 1. The regulations prescribed by the ordinance of the 26th July, 1778, concerning the navigation of neutral vessels, shall be strictly observed by all those to whom they shall be applicable; but in case of a contravention on their part, they are to suffer the confiscations and condemnations in damages fixed on by the said ordinance and the laws.

II. The ministers of justice, of the marine, of exterior relations and of the finances are charged, each one in what concerns him, with the execution of the present decree, which shall be inserted in the bulletin of the laws.

The consuls of the Republick.

BONAPARTE, SIEYES,
ROGER DUCOS.

Imperial Camp, Berlin, Nov. 21, 1806.

NAPOLEON, emperor of the French, and king of Italy, considering:

1. That England does not admit the right of nations, as universally acknowledged by all civilized people :

2. That she declares as an enemy every individual belonging to an enemy state, and, in consequence, makes prisoners of war, not only of the crews of *armed* vessels, but also of *merchant* vessels, and even the supercargoes of the same :

3. That she extends or applies to merchant vessels, to articles of commerce, and to the property of individuals, the right of conquest, which can only be applied or extended to what belongs to an enemy state :

4. That she extends to ports not fortified, to harbours, and mouths of rivers, *the right of blockade*, which, according to reason and the usage of civilized nations, is applicable only to strong or fortified ports :

5. That she declares blockaded places before which she has not a single vessel of war, although a place ought not to be considered blockaded, but when it is so invested as that no approach to it can be made, without imminent hazard ; that she declares even places blockaded, which her united forces would be incapable of doing, such as entire coasts and a whole empire :

6. That this unequalled abuse of right of blockade has no other object than to interrupt the communications of different nations, and to extend the commerce and industry of England upon the ruin of those of the continent :

7. That this being the evident design of England, whoever deals on the continent in English merchandise favours that design, and becomes an accomplice :

8. That this conduct in England (worthy only of the first ages of barbarism) has benefited her to the detriment of other nations :

9. That it being right to oppose to an enemy the same arms she makes use of, to combat as she does, when all ideas of justice, and every liberal sentiment (the result of civilization among men) are disregarded :

We have resolved to enforce against England the usages which she has consecrated in her maritime code.

The present decree shall be considered as the fundamental law of the empire, until England has acknowledged that *the rights of war* are the same on land as at sea ; that it cannot be extended to any private property whatever, nor to persons who are not military, and until the right of blockade be restrained to fortified places, actually invested by competent forces.

Imperial Decree of the 21st of November, 1806.

[See Vol. v. p. 478.]

Paris, December 26.

IMPERIAL DECREE.

Rejoinder to his Britannick Majesty's Order in Council, of 11th November, 1807. At our Royal Palace at Milan, December 17, 1807.

[See Vol. vi. p. 470.]

Extract of a Letter from Gen. Armstrong to the Secretary of State. Paris, April 23, 1808.

“ ORDERS were given on the 17th instant, and received yesterday at the imperial custom-house here, “ to seize all American vessels now in the ports of France, or which may come into them hereafter.”

“ Postscript.—April 25th, 1808. I have this moment received the following explanation of the above mentioned order, viz. That it directs the seizure of vessels coming into ports of France after its own date, because no vessel of the United States can now navigate the seas, without infracting a law of the said States, and thus furnishing a presumption that they do so on British account, or in British connexion.”

Note....The above extracts contain the only authentick information, received at the department of state, relative to the Bayonne decree.

FRENCH WEST INDIA DECREES.

TRANSLATION.

EQUALITY.

LIBERTY.

Extract from the Registers of the Special Agency of the Executive Directory, to the Windward Islands.

THE special agents of the executive directory, to the Windward Islands.

Considering that the laws as well ancient as modern, forbid neutrals to carry to the enemy contraband or prohibited merchandises :

Considering that notwithstanding the complaints of the minister plenipotentiary of the French Republick, near the United States of North America, of which he has informed us by his letter of the 2d July, 1796, those states, and especially Virginia, have fitted out vessels loaded with horses for the English :

Decree, that from this day forward, all vessels loaded with merchandises designated by the name of contraband, as arms, instruments, munitions of war, of what kind soever, horses and their furniture, shall be stopped by the ships of war and privateers ; to be seized and confiscated for the benefit of the captors.

At Basseterre, Guadaloupe, August 1, 1796.

Signed on the Register,

VICTOR HUGUES,
LEBAS.

Compared with the Register.

VAUCHELET,
Secretary of the Agency.

TRANSLATION.

EQUALITY.

LIBERTY.

DECREE.

The Special Agents of the Executive Directory, to the Windward Islands.—

CONSIDERING that the ports of the Windward and Leeward Islands, as well as those of Demarara, Essequibo,

and Berbice, delivered up to the English, occupied and defended by emigrants, are in a state of regular siege, and not entitled to the same advantages as the ports of the different English colonies, possessed by that power before the war, or to other rights ;

Considering that it is against every principle to treat a horde of insurgents, destitute of country, without government, and without a flag, with the same respect as civilized nations preserve towards each other during a war ;

Considering that, by the authentick acts which are in our possession, it is proved that the divers places of the colonies delivered up to the English by the rebel Frenchmen and Batavians, no more belong to the British government than la Vendée, in which the English ministry had in like manner mercenary troops under pay—some regiments clad in the same uniform as those of England ;

Considering that in virtue of the 2d article of the treaty of alliance concluded at Paris on the 6th of February, 1778, between the United States and France, the former power engaged to defend the American possessions in case of war, and that the government and the commerce of the United States have strangely abused the forbearance of the Republick of France in turning to its injury the favours granted to them of trading in all the ports of the French colonies ;

That by permitting neutral vessels any longer to carry provisions of war and of subsistence to men evidently in a state of rebellion, would be to prolong civil war, and the calamities and crimes flowing therefrom—Decree as follows :

ARTICLE 1. The ships of the Republick and French privateers are authorized to capture and conduct into the ports of the Republick, neutral vessels destined for the Windward and Leeward Islands of America, delivered up to the English, and occupied and defended by the emigrants. These ports are Martinico, St. Lucia, Tobago, Demarara, Berbice, Essequibo ;—and at the leeward, Port-au-Prince, St. Mark's, L'archaye and Jeremie.

2. Every armed vessel, having a commission from either of the said ports, shall be reputed a pirate, and the crews adjudged and punished as such.

3. The vessels and cargoes described in the first and second articles are declared good prize, and shall be sold for the benefit of the captors.

4. Every captured vessel, which shall have cleared out under the vague denomination of *West Indies*, is comprehended in the first and second articles.

5. The decree of the 4th of last Nivose, in pursuance of the resolution of the executive directory, of the 14th Messidor, 4th year, shall be executed till further orders, as far as shall not be contravened by the present decree.

This decree shall be printed, transcribed in the register of the criminal and commercial tribunals, sent to all the French colonial ports, read, published, and posted up, wherever it may be necessary.

It shall be notified officially to the neutral governments of St. Croix, St. Thomas, and St. Bartholomews.

Enjoining the criminal and commercial tribunals of Guadaloupe, their delegates in the different French colonies and elsewhere, the rear-admiral commandant on the West India station, and the head of the administration, to aid executing the present decree, each in his respective department.

Done at Basseterre, island of Guadaloupe, the 13th of Pluviose, 5th year, (1st February, 1797) of the French Republick, one and indivisible.

VICTOR HUGUES & LEBAS.

TRANSLATION.

Extract from the Register of the Resolves of the Commission delegated by the French Government to the Leeward Islands.

THE commission resolves, that the captains of French national vessels and privateers are authorized to stop, and bring into the ports of the colony, American vessels bound to English ports, or coming from the said ports.

The vessels which are already taken, or shall be hereafter, shall remain in the ports of the colony, until it shall be otherwise ordered.

At the Cape, 7th Frimaire (27th November, 1797) in the fifth year of the French Republick, one and indivisible.

Signed on the Records of the Process Verbal.

LE BLANC, President.

SANTHONAX, RAIMOND, Commissioners.

PASCAL, Secretary General.

A true copy.

The Secretary General of the Commission,
PASCAL.

L. Ferrand, General of Brigade, Commander in Chief of St. Domingo, acting as Captain General, and a Member of the Legion of Honour.

EXPERIENCE has, for too much time, taught the general, that all kind of regard and modification towards those scoundrels, who maintain the rebellion in Hispaniola, by furnishing every thing necessary to the rebels, against the will and approbation of their respective governments, and who, by those acts of cupidity, dishonour the flags they sail under; and finding the necessity of putting a stop to rapacity, and to treat them as pirates, has proclaimed and proclaims....

ART. I. All individuals whomsoever, found on board of any vessel or vessels, allies or neutrals, bound to any ports in Hispaniola, occupied by the rebels, shall suffer death.

Those found on board of any vessel, allies or neutrals, coming out of any ports in Hispaniola, occupied by the rebels, shall suffer death.

Those found at two leagues distance, from any part of the coast of Hispaniola, occupied by the rebels, on board of allies or neutrals, shall suffer death.

II. The general informs, that all prisoners made in those different cases, shall be brought into one of the ports of Hispaniola, occupied by the French, to be tried by military commission, which is to pronounce sentence.

III. This proclamation shall be put into execution, on the 1st Floreal, (21st April) and until that time all the preceding proclamations, in order to prevent all kinds of communication with the coast of Hispaniola, occupied by the rebels, shall be strictly executed.

iv. Of this present proclamation registered at the colonial inspection, one hundred copies are printed, published and posted up in all the chief places, round the east part of Hispaniola, and all necessary steps shall be taken to its publicity in all the islands and continent of America.

Done at head quarters of the general of St. Domingo, the 16th Pluviose, year the 13th, 5th February, 1805.

The general commander in chief, acting as captain general, and member of the legion of honour.

L. FERRAND.

SPANISH DECREES, &c.

Copy of a Letter from the Secretary of State of his Catholick Majesty, to the Minister Plenipotentiary of the United States at Madrid. Aranjuez, Feb. 15, 1800.

SIR,—The king wishing to lessen as much as possible the evils resulting to the nation, from the scandalous traffick which many of his subjects carry on with Gibraltar by means of neutral vessels, and making use of just reprisals against the enemies of his crown, who have declared the ports of Cadiz and St. Lucar de Barrameda blockaded: his majesty has thought proper to declare, that from this day he should consider Gibraltar as blockaded, and that under this view all captures of neutral vessels going to the said place should be held as legitimate: for which purpose, and that ignorance may not be pleaded, his majesty has commanded me to communicate this declaration for the information and government of your court.

I place myself at your disposition, and pray God to preserve your life many years.

MARINO LUIS DE URQUEJO.

SPANISH DECREE.

[See Vol. v. p. 487.]

His Majesty has been pleased to issue the following Royal Decree:

[See Vol. vi. p. 76.]

The following documents were not communicated in time to be inserted in the order of date.

Copy of a Letter from Sir John Jervis, to Thomas Griffith, Esq. Barbadoes.

SIR,—The several French West India islands are to be considered as under blockade, from the arrival of the armament at Barbadoes, the 6th of January : therefore all neutral vessels, trading with these islands within that period, are clearly intended to come within the king's order in council, dated the 6th of November, 1793.

J. JERVIS.

Boyne, in Fort Royal Bay, Martinico,
18th March, 1794.

INSTRUCTIONS

To the Commanders of all Ships of War and Privateers that have, or may have, Letters of Marque against France. August 18, 1794.

GEORGE R.

WHEREAS by an article of our instructions to the commanders of our ships of war and privateers, having letters of marque against France, given at our court at St. James, the 8th day of June, 1793, we thought fit to declare, that it should be lawful to stop and detain all ships laden wholly, or in part, with corn, flour, or meal, bound to any port in France, or any port occupied by the armies of France, and to send them to such ports as should be most convenient, in order that such corn, meal, or flour, might be purchased on behalf of our government, and the ships be released after such purchase, and after a due allowance for freight, or that the masters of such ships, on giving due security, to be approved by our court of admiralty, should be permitted to dispose of their cargoes of corn, meal, or flour, in the ports of any power in amity with us. We, not judging it expedient to continue for the present the purchase of the said cargoes on behalf of our government, are pleased to revoke the said article, until our farther order therein ; and to declare that the same shall no

longer remain in force. But we strictly enjoin all our commanders of our ships of war and privateers, to observe the remaining articles of the said instructions ; and, likewise, all other instructions which we have issued, and which still continue in force.

*His Britannick Majesty's Ship Captain, off Cadiz, April
11, 1797.*

SIR,—In consequence of the unprovoked declaration of war, by the king of Spain, against his Britannick majesty and the British nation, it is thought right that Spain should no longer have any trade. I have therefore the honour to acquaint you, that no neutral vessel will be permitted, in future, to enter or leave the port of Cadiz, unless by leave obtained from me, or the commander in chief of the British fleet, and that from this moment Cadiz is to be considered as a blockaded port.

I have the honour, &c. &c.

HORATIO NELSON.

To the American and Danish Consuls at Cadiz.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. JAN. 17, 1809.

I COMMUNICATE to Congress certain letters which passed between the British secretary of state, Mr. Canning, and Mr. Pinkney, our minister plenipotentiary at London. When the documents concerning the relations between the United States and Great Britain were laid before Congress, at the commencement of the session, the answer of Mr. Pinkney to the letter of Mr. Canning had not been received, and a communication of the letter alone would have accorded neither with propriety, nor with the wishes of Mr. Pinkney. When that answer afterwards arrived, it was considered that as what had passed in conversation had been superseded by the written and formal correspon-

dence on the subject, the variance in the statement of what had verbally passed was not of sufficient importance to be made the matter of a distinct and special communication. The letter of Mr. Canning, however, having lately appeared in print, unaccompanied by that of Mr. Pinkney, in reply, and having a tendency to make impressions not warranted by the statements of Mr. Pinkney, it has become proper that the whole should be brought into publick view.

TH: JEFFERSON.

TRIPPLICATE.

London, September 24, 1808.

SIR.—I am now enabled to transmit to you a copy of Mr. Canning's answer, received only last night, to my note of the 23d of August.

This answer was accompanied by a letter, of which also a copy is enclosed, recapitulating what Mr. Canning supposes to be "the substance of what has passed between us at our several interviews, previous to the presentation of my official letter."

To the accompanying paper, I think it indispensable that I should reply without delay; supporting, with politeness, but with firmness, the statements, which I have already had the honour to make to you, of the conversations in question, and correcting some errors upon points, which Mr. Canning has thought fit to introduce into his letter, but which I had not supposed it necessary to mention in detail in my despatches.

I shall not detain Mr. Atwater with a view to this reply, but will take care to forward a copy of it by an early conveyance. My official note and the answer to it being perfectly explicit, Mr. Canning's misapprehensions (for such they are) of previous verbal communications can scarcely be very important in a publick view; but it is, nevertheless, of some consequence that, whatever may be the object of his statement, I should not make myself a party to its inaccuracies, by even a tacit admission of them.

I do not perceive that a formal reply to the more official paper can now be of any advantage; but I shall probably

take occasion to combine with my reply to the one paper some observations upon the other.

I regret extremely that the views which I have been instructed to lay before this government, have not been met by it as I had at first been led to expect. The overture cannot fail, however, to place in a strong light, the just and liberal sentiments by which our government is animated, and in other respects to be useful and honourable to our country.

I have the honour to be, &c.

WILLIAM PINKNEY.

The Hon. James Madison, &c. &c. &c.

Foreign Office, September 23, 1808.

SIR,—In laying before the king your letter of the 23d August, and in communicating to you the enclosed answer, which I have received his majesty's commands to return to it, I confess that I feel some little embarrassment from the repeated references which your letter contains, to what has passed between us in conversation; an embarrassment arising in no degree (as you are perfectly aware) from any feeling of distrust in you personally, but from a recollection of the misrepresentation which took place in America of former conferences between us. You gave me on that occasion the most satisfactory proof that such misrepresentation did not originate with you, by communicating to me that part of your despatch in which the conferences particularly referred to were related, and related correctly; but this very circumstance while it establishes your personal claim to entire confidence, proves, at the same time, that a faithful report of a conference on your part, is not a security against its misrepresentation.

It was for that reason principally that, after hearing with the most respectful attention all that you had to state to me verbally on the subject of the present overture, I felt myself under the necessity of requiring as "indispensable," a written communication upon the subject.

It is for that reason also, that as, in your written communication, you refer me to our late conversations for the "bearings and details" of your proposal, I feel it necessary to recapitulate, as shortly as I can, what I conceive to

have passed in those conversations, beyond what I find recorded in your letter.

The principal points in which the suggestions brought forward by you in personal conference, appear to me to have differed in some degree from the proposal now stated by you in writing—are two—the first, that in conversation the proposal itself was not distinctly stated as an overture authorized by your government—the second, that the beneficial consequences likely to result to this country from the acceptance of that proposal, were “pursued” through more ample “illustrations.”

In the first of our conferences, I understood you to say little more, on the authority of your government, than that you were instructed to remonstrate against the orders in council, of the 7th of January, and of the 11th of November, 1807; but to add, as from yourself, an expression of your own conviction, that if those orders were repealed, the President of the United States would suspend the embargo with respect to Great Britain. Upon the consequences of such a suspension of the embargo, while it would still continue to be enforced against France, you expatiated largely, still speaking, however, as I understood, your own individual sentiments.

It was suggested by you that America, in that case, would probably arm her merchant ships against the aggressions of France—an expedient to which, you observed, it would be perfectly idle to resort against Great Britain. The collision of armed vessels would probably produce war, and the United States would be thus brought into the very situation in which we must wish to place them—that of hostility to France, and virtual, if not formal alliance with Great Britain.

In our second conference, you repeated and enforced these arguments, calculated to induce the British government to consent to the repeal of the orders in council, and in this conference, though not stating yourself to be authorized by your government, formally to offer the suspension of the embargo as an immediate consequence of that repeal, yet you did profess (as I understood you) a readiness to take upon yourself to make that offer, provided that I would give you beforehand an unofficial assurance that coupled with that offer so made, the demand of the repeal of the

orders in council of January and November, 1807, would be favourably received.

I, of course, declined to give any such previous assurance ; but as you appeared to attach great importance to this suggestion, and as I was led to think that a compliance with it might relieve you from a difficulty in executing the instructions of your government, I consented to take a few days to consider of it, and to reserve my definitive answer until I should see you again.

I never doubted in my own mind, as to the inexpediency and impropriety of encouraging you to take an unauthorized step, by an unofficial promise that it should be well received.

But, in a matter of such delicacy, I was desirous of either confirming or correcting my own opinion by the opinions of others.

The result was, that in a third interview which took place shortly after the second, I had the honour to inform you, that after the most mature deliberation. I found it impossible to yield to your suggestion, and that it therefore remained for you to frame your proposition according to the instructions of your government or to your own unbiassed discretion.

My own share in these several conferences beyond what is implied in the above statement, was very small.

I have, as you know, always rather wished to refer the argumentative discussion of the subject of the orders in council, to the official correspondence, I have more than once been taught to expect you to open upon it, than to engage with you in a verbal controversy, which, if confined to ourselves, would be useless ; if afterwards to be reduced into writing for the purpose of being communicated to our respective governments, superfluous.

But to the representations which you have repeatedly made against the orders in council, of January and November, as "violating the rights of the United States, and affecting most destructively their best interests, upon grounds wholly inadmissible both in principle and in fact," I have uniformly maintained the "unquestionable right" of his majesty to "resort to the fullest measures of retaliation, in consequence of the unparalleled aggression of the enemy, and to retort upon that enemy, the evils of his own injustice;" and have uniformly contended that "if third

parties suffer from those measures, the demand of reparation must be made to that power which first violates the established usages of war and the rights of neutral states."

There was indeed one point upon which I was particularly anxious to receive precise information, and upon which, from your candour and frankness, I was fortunate enough to obtain it.

The connecting together, in your proposed overture, the suspension of the embargo and the repeal of the orders in council (as well those of November, as the preceding one of the 7th of January) might appear to imply that the embargo had been the immediate consequence of those orders; and I was therefore desirous to ascertain whether, in fact, the orders in council of November, had been known to the government of the United States, previously to the message of the President, proposing the embargo, so as to be a moving consideration to that message.

I had the satisfaction to learn from you, sir, that such was not the fact; that rumours indeed might have reached America of *some* measure of further retaliation being in the contemplation of the British government, that perhaps (as I understood you) some more severe and sweeping measure might have been expected:—but that of the orders in council of the 11th of November, as having been actually issued, there was no certain knowledge in America, or at least none in the possession of the American government, at the time of proposing the embargo.

Such, sir, is according to the best of my recollection, correctly the substance of what has passed between us at our several interviews, previous to the presentation of your official letter;—and such I have represented to have been the substance of what passed on these several occasions, in the report of our conferences which it has been my duty to make to the king.

If, in this recapitulation, there is any thing mistaken, or any thing omitted, you will do me the justice to believe the error unintentional, and you may rely on my readiness to set it right.

I have the honour to be, &c.

GEORGE CANNING.

William Pinkney, &c. &c. &c.

Great Cumberland Place, September 24, 1808.

SIR,—I have the honour to acknowledge the receipt of your answer to my official note of the 23d of last month, relative to the British orders in council of January and November, 1807, together with a statement of “the substance of what has passed between us at our several interviews, previous to the presentation of that note.”

I shall lose no time in transmitting to my government copies of both these papers, upon the last of which I will take the liberty, in the course of a few days, to trouble you with some observations.

I have the honour to be, &c.

WILLIAM PINKNEY.

The Right Hon. George Canning, &c. &c. &c.

TRIPPLICATE.

London, Oct. 11, 1808.

SIR,—I have the honour to transmit enclosed a copy of my reply to Mr. Canning’s letter to me of the 23d of last month, accompanying his official answer, of the same date, to my note of the 23d of August.

I have the honour to be, &c.

WM. PINKNEY.

The Hon. James Madison, &c. &c. &c.

To Mr. Canning. Great Cumberland Place, October 10, 1808.

SIR,—If my reply to the letter which you did me the honour to address to me on the 23d of last month, should be of greater length than the occasion may be thought to require, you will, I am sure, impute it to its real cause, an earnest desire on my part, arising from a feeling of sincere respect for you, that the statement, which I am to give of facts deemed by you to be important, should be full as well as accurate.

I will not fatigue you, sir, with assurances that no person could be less disposed than I am to find fault with the object of your letter, which appears to be to guard against all misrepresentation of "what has passed in our late interviews beyond what you find recorded in my note." You have told me that I have, personally, no concern in that object, and I did not require to be told that my government has as little. I understand, indeed, that the circumstance which has suggested a peculiar motive for this proceeding, was one of those newspaper misrepresentations, which every day produces where the press is free, which find no credit and beget no consequence, and for which it is greatly to be feared your expedient will provide no remedy. Of my conduct, when that circumstance occurred, in giving you unsolicited proofs that I had transmitted to Mr. Secretary Madison a faithful report of our conferences, mistaken by publick rumour or private conjecture, it is not necessary for me to speak, for you have yourself done justice to it.

The motive, to which I am indebted for the honour of your letter, appears to have been instrumental in producing another effect equally unexceptionable. But you will allow me to say, that until the receipt of that letter, I had not been apprized, by the slightest intimation, that it was in any degree owing to such a cause that you declined, on the part of his majesty's government, after two conferences, in which I had been suffered, if not encouraged, to unfold myself, individually as well as officially, at great length and with perfect frankness, to give an answer to my verbal overture.

At our first interview, (on the 29th of June) verbal communication was not discountenanced, but commended : For, after I had made myself understood as to the purpose for which the interview had been requested, you asked me if I thought of taking a more formal course, but immediately added, that you presumed I did not ; for that the course I had adopted was well suited to the occasion. My reply was in substance, that the freedom of conversation was better adapted to our subject, and more likely to conduct us to an advantageous conclusion, than the constraint and formality of written intercourse, and that I had not intended to present a note. At the second interview, (on the 22d of July) it did not occur to me that I had any reason

to conclude, and certainly I did not conclude, that verbal communication had not continued to be acceptable, as a preparatory course ; and it was not until the third interview, (on the 29th July) that it was rejected as inadmissible. But even then I was not told, and had not the smallest suspicion, that this rejection was to be ascribed, either wholly or partially, to the motive which your letter has since announced to me. That this motive had, nevertheless, all the influence now imputed to it I am entirely confident, and I take notice of it only because, as I have not mentioned it to my government in my official account of our conferences, I can no otherwise justify the omission, either to it or to you, than by showing that I had in truth no knowledge of the fact when that account was transmitted.

I may take occasion to set forth, in the present letter, the import of all that can be material of our several conversations, according to my recollection of them ; but there are some points to which I ought to pay a more particular attention, because you have thought them entitled to it ; although I should myself, perhaps, have been inclined to think that they had lost much of their importance by the presentation of my note and the receipt of your written answer ; both of which are perfectly intelligible, upon these points at least, without the aid of the conferences that preceded them.

You observe that "the principal points, in which the suggestions, brought forward by me in personal conference, appear to you to have differed in some degree from the proposal stated by me in writing, are two ; the first, that in conversation the proposal itself was not distinctly stated, as an overture authorized by my government ; the second, that the beneficial consequences, likely to result to this country from the acceptance of that proposal, were "pursued" through more ample "illustrations."—

With regard to the first of these supposed differences, I feel persuaded, sir, that, upon further recollection, it will occur to you, that, at our first conference, I told you explicitly that the substance of what I then suggested, that is to say, that your orders being repealed as to us, we would suspend the embargo as to Great Britain, was from my government ; but that the manner of conducting and illustrating the subject, upon which I had no precise or-

ders, was my own. I even repeated to you the words of my instructions, as they were upon my memory; and I did not understand, either then or afterwards, that there was any doubt as to their existence or their sufficiency, or any desire to have a more exact and formal communication of them while the result of our discussions was distant and uncertain. I said undoubtedly that I had been directed to require the revocation of the British orders in council; but I said also, that, although the government of the United States still supposed itself to be authorized to expect their repeal, upon the ground of right, as it existed from the first (a subject, however, which I informed you I did not wish at that time to agitate;) I was notwithstanding empowered to give you the above mentioned assurances, which would, as I presumed, hold out inducements to Great Britain, as well on the score of policy, as on that of justice, to fulfil that expectation. I should scarcely have undertaken to offer such assurances as from myself, or upon my own "conviction" that the President would act in conformity with them. And I should still less (if that were possible) have ventured to ask of you that you would make them, in that form, the subject of repeated conferences, and even of reference to others, as placing the question of a recall or continuance of the orders in council upon new grounds of prudence and equity.

If it is merely intended (as I doubt not it is) to say that I did not make, or declare my intention to make, my overture in writing, before I had endeavoured to prepare for it by personal explanations such a reception as I felt it deserved, and before I could ascertain what shape it would be most proper to give to it, or how it would be met by this government, nothing can be more correct.

It was my sincere wish, that my proposal, which I believed to be advantageous to Great Britain, as well as honourable to the United States, should be accepted; and accordingly I preferred a mode of proceeding which, while it was calculated to avoid unprofitable discussions, upon topicks of some delicacy and great difficulty, would furnish opportunities for frank and friendly communication upon all the bearings of my proposal, and lead to the result at which I aimed, if that result should be practicable, in such way as, upon mature reflection, and after a liberal interchange of sentiments, should be found to be most for the

honour of our respective governments. These views were laid before you without reserve, and seemed to be approved; and I confess to you, sir, that when I was afterwards informed that, if I would obtain an answer to my overture, I must make it in writing, and that I must not look for any previous intimation of the nature of that answer, I did not allow myself any longer to anticipate with much confidence such an issue as I desired.

The second difference, which your letter supposes to exist between my note and verbal suggestions, cannot I think, in any view be very material. I will say something upon it, however.

My note declares, that if I forbear to pursue certain ideas through all the illustrations of which they are susceptible, it is because our personal conferences, as well as the obvious nature of the ideas themselves, render it unnecessary. This implies, undoubtedly, that more had been said in our conferences, explanatory of these ideas, than is to be found in the note itself; and that implication can scarcely be otherwise than true, if I "expatiated largely," as you very justly say I did, "upon the consequences of a suspension of the embargo as to Great Britain, while it still continued to be enforced against France."

The general idea to which the note refers is, that justice and interest conspired to recommend that you should take advantage of my proposal. The particular positions are that, if your orders and our embargo should be rescinded in the manner suggested, our commercial intercourse would be immediately revived; that if France followed your example and retracted her decrees, the avowed purpose of your orders would be accomplished; that, if France refused to retract, the American embargo, continuing as to her, would occupy the place of your orders, and perform their office, even better than they could perform it themselves, without any of the disadvantages inseparable from such a system.

It is certain that in our conversations I endeavoured to prove that these general and particular notions were founded in truth, by a variety of arguments, thrown out in a very desultory way, with more zeal than precision, and with that entire freedom, which unlimited confidence in your candour, and a firm opinion that the views of my govern-

ment would derive new titles to respect from a full examination, were calculated to produce.

I should not deal ingenuously with you, sir, if I were to pretend that I think myself able to recapitulate these disjointed arguments, as they were actually delivered ; and I am quite sure that I shall consult your gratification, as well as my own credit, by declining such an undertaking. But I think I can state, in a condensed form, what I intended you should understand ; and I presume that what I did say was not very wide of my real impressions.

Upon the footing, on which my overture would place the *justice* of the British orders, I did not go into much detail, at any one of the three interviews mentioned in your letter. But, combining my unconnected and occasional observations on that point, as they were made at different times, and more especially as they were afterwards given and enlarged upon when I had the honour to see you on the 26th of August, (of which, however, it is proper to say I have only a very scanty memorandum) their import will not, perhaps, be found to be much, if it all mistaken in such parts of the following statement as relate to that branch of the subject.

I meant to suggest, then, that upon your own principles it would be extremely difficult to decline my proposal ; that your orders inculcate as the duty of neutral nations, resistance to the maritime decrees of France, as overturning the publick law of the world, and professedly rely upon that duty, and an imputed abandonment of it, for their inducement and their justification ; that of these orders, that of the 7th of January, 1807, (of which the subsequent orders of November are said, in your official reply to my note of the 23d of August, to be only an extension, "an extension in operation not in principle") was promulgated and carried into effect a few weeks only after the Berlin decree had made its appearance, when the American government could not possibly know that such a decree existed, when there had been no attempt to enforce it, and when it had become probable that it would not be enforced at all, to the prejudice of neutral rights ; that the other orders were issued before the American government, with reference to any practical violation of its rights, by an attempt to execute the Berlin decree in a sense different from the stipulations of the treaty subsisting between the

United States and France, and from the explanations given to general Armstrong by the French minister of marine, and afterwards impliedly confirmed by general Champagny, as well as by a correspondent practice, had any sufficient opportunity of opposing that decree, otherwise than it did oppose it; that your orders, thus proceeding upon an assumed acquiescence not existing in fact, retaliated prematurely, and retaliated a thousand fold, through the rights of the United States—wrongs rather threatened than felt, which you were not authorized to presume the United States would not themselves repel, as their honours and their interests required; that orders, so issued, were, to say the least of them, an unseasonable interposition between the injuring and the injured party, in a way the most fatal to the latter; that by taking justice into your own hands, before you were entitled to do so, at the expense of every thing like neutral rights, and even at the expense of other rights justly the objects of yet greater sensibility, and by inflicting upon neutral nations, or rather upon the United States, the only neutral nation, injuries infinitely more severe and extensive than it was in the power of France to inflict; you embarrassed and confounded and rendered impracticable that very resistance which you demanded of us; that my proposal destroyed all imaginable motives for continuing, whatever might have been the motives for adopting, this new scheme of warfare; that it enabled you to withdraw, with dignity and even with advantage, what should not have come between France and us; that its necessary tendency was to place us at issue with that power, or in other words, in the precise situation in which you have maintained we ought to be placed, if it should persist in its obnoxious edicts; that the continuance of our embargo, so modified, would be at least equivalent to your orders; for that, in their most efficient state, your orders could do no more, as regards the United States, than cut off their trade with France and the countries connected with her; and that our embargo, remaining as to France and those countries, would do exactly the same; that if the two courses were barely, or even nearly upon a level, in point of expediency, Great Britain ought to be forward to adopt that which was consistent with the rights, and respectful to the feelings of others; that my proposal, however, had powerful

recommendations which the orders in council had not; that it would re-establish, without the hazard of any disadvantage, before new habits had rendered it difficult if not impossible, a traffick which nourished your most essential manufactures, and various other important sources of your prosperity; that it would not only restore a connexion valuable in all its views, but prepare the way for the return of mutual kindness, for adjustments greatly to be desired—and in a word, for all those consequences which follow in the train of magnanimity and conciliation, associated with prudence and justice.

Among the observations intended to illustrate my opinion of the certain probable and possible effects of the concurrent acts which my proposal had in view, were those to which you allude in the sixth paragraph of your letter. Having stated that renewed commercial intercourse between Great Britain and the United States would be the first effect, I remarked, in the progress of the conversation, that the edicts of France could not prevent that intercourse, even if France should adhere to them; although Great Britain, by her superior naval means, might be able to prevent the converse of it; that the power of France upon the seas was in no degree adequate to such a purpose; and if it were otherwise, that it was not to be supposed that the United States, resuming their lawful commerce with this country, after a recall of the British orders in council, would take no measures against systematick interruptions of that commerce by force and violence, if such should be attempted.

If, when I was honoured with the different interviews before mentioned, I had been able to conjecture the nature of the arguments, which were to have an influence against my proposal, as I now find them stated in your answer to my note, I should probably have ventured to suggest, in addition to the remarks actually submitted to your consideration, that if “the blockade of the European continent,” by France and the powers subservient to, or in combination with her, to which your orders, as “a temperate but determined retaliation,” were opposed, has been “raised even before it had been well established,” and if “that system” so opposed, “of which extent and continuity were the vital principles, has been broken up into fragments utterly harmless and contemptible,” there seems scarcely to

be left, in your own view of the subject, any intelligible justification for perseverance in such of the retaliatory measures of Great Britain, as operate through the acknowledged rights of a power, confessedly no party to that combination, and ready to fulfil her fair neutral obligations, if you will suffer her to do so. Under such circumstances, to abandon what is admitted to have lost its only legitimate object, is not "concession;" it is simple justice. To France, indeed, it might be concession. But it is not France, it is the government of America, neither subservient to France, nor combined with France, a third party, whose rights and interests your orders deeply affect without any adequate necessity, according to your own showing, that requires their recall, and that too upon terms, which cannot but promote the declared purposes of these orders, if any remain to be promoted. I say "without any adequate necessity according to your own showing;" for I am persuaded, sir, you do not mean to tell us, as upon a hasty perusal of your answer to my note might be imagined, that those rights and interests are to be set at nought, lest "a doubt should remain to distant times of the determination and the ability of Great Britain to have continued her resistance," or that your orders may indefinitely give a new law to the ocean, lest the motive to their repeal should be mistaken by your enemy. If this might indeed be so, you will perhaps permit me to say, that highly as we may be disposed to prize the firm attitude and vast means of your country at this eventful moment, it would possibly suggest to some minds a reluctant doubt on the subject of your observation, "that the strength and power of Great Britain are not for herself only, but for the world."

I might also have been led to intimate that my proposal could apparently lose nothing by admitting, that "by some unfortunate concurrence of circumstances, without any hostile intention, the American embargo did come in aid of 'the before mentioned' blockade of the European continent, precisely at the very moment when, if that blockade could have succeeded at all, this interposition of the American government would most effectually have contributed to its success." Yet I should probably have thought myself bound to remind you that, whatever may be the truth of this speculation, the same embargo withheld our ton-

nage and our productions from that communication with the colonies of your enemies and with the European continent, which you had asserted your right to prevent ; which as a direct communication (with the continent) you had in fact prohibited ; which, even through British ports, or in other qualified forms, you had professed to tolerate, not as that which could be claimed, but as an indulgence that could at any time be withdrawn ; which, as a traffick for the United States to engage in, you had at least discouraged, not only by checks and difficulties in the way of its prosecution, but by manifesting your intentions to mould it into all the shapes which the belligerent, fiscal, or other peculiar policy of Great Britain might require, and to subject it to the exclusive jurisdiction of her municipal code, armed with all the prerogatives of that universal law, to which nations are accustomed to look for the rights of neutral commerce.

In giving an account of our second conference, you say, " that, though not stating myself to be authorized by my government formally to offer the suspension of the embargo, as an immediate consequence of the repeal of the orders in council, yet I did profess my readiness to take upon myself to make them that offer, provided that you would give me before hand an unofficial assurance that, coupled with that offer, so made, the demand of the repeal of the orders would be favourably received ; that you of course declined to give any such previous assurance ; but, as I appeared to attach great importance to this suggestion, and you were led to think that a compliance with it might relieve me from a difficulty in executing the instructions of my government, you consented to take a few days to consider of it, and to reserve your definitive answer until you should see me again." You then observe that you " never doubted, in your own mind, as to the inexpediency and impropriety of encouraging me to take an unauthorized step, by an unofficial promise that it should be well received." I am sure you did not, sir ; but I must take the liberty to say that I am equally sure, that I never thought of asking you to give me encouragement to take an unauthorized step of any kind. I am, indeed, truly mortified, that my conduct has appeared to you in that light ; and I should not be readily consoled, if I did not reflect that, in condescending to listen, even for a moment, to what must have struck you

as an irregularity, as vain and nugatory in its purpose as reprehensible in its principle, you must at least have given me credit for good intentions, and for a strong desire, sincerely felt although erroneously obeyed, that our countries should find themselves in that relative position which suits the interests and tends to the happiness of both.

When I professed a readiness to make my proposal in writing, it was, as you state, provisionally ; but I did not intimate that I was acting without authority, nor did I comprehend that such was, as I now know it to have been, your impression. The provisional nature of my offer arose out of circumstances, and was afterwards pressed, upon conviction that, if it was meant to adopt the views of the President, nothing more could be necessary. I understood you to be desirous of ascertaining, whether I was empowered and disposed with a view to a final arrangement, to present, what I had suggested, in a written form, as an overture originating with my government.—I said, of course, that, every thing being first matured, a note should be presented, but that I would, with your permission, take a little time to consider of the manner and terms. I did not, at that time, suppose that we were conversing about a written proposal which was to be made only to be rejected, or even for the purpose of deliberation, and consequently, in professing my willingness to make it as soon as we were prepared for it, I presumed that I had done all that you desired. And I was confirmed in this opinion, not only by your saying nothing, as I supposed, to the contrary, but by your requesting me, as I was about to leave the room, to employ myself, before the next interview, upon such a note as we had been talking of, and then retracting that request by observing, that I would doubtless first desire to know what were your ideas and intentions upon the subject of it, with which I was given to understand, I should be made acquainted at another conference.

At the third interview, after speaking of a transaction upon the lakes, of which your traders complained, and of another occurrence in the bay of Passamaquoddy, you observed, that you had thought long and anxiously upon what I had suggested to you ;—that the subject had at first struck you as being much more simple than upon careful examination it had been found to be ;—that, in the actual

state of the world, it behooved both you and me to move in this affair with every possible degree of circumspection ; that without some explicit proposal on my part in writing, upon which the British government could deliberate and act, nothing could be done ; and, finally, that you must leave me to consult my own discretion whether I would make such a proposal.

It appeared to me that, if this determination should be persisted in, my overture was not likely to be successful, and I urged, accordingly, the propriety of going on in a course which would lead us to a better issue. That course was, that we should understand one another as to our respective views, and that a concise note, which I had in fact prepared since the last meeting, should then be presented and acted upon. You informed me that my wish in this particular could not be acceded to ; that if I presented a note, you must be left at perfect liberty to decide upon what it proposed ; that you could not give me even an intimation of the probable consequences of it ; and, in a word, that you would neither invite nor discourage such a proceeding. You added that there were some points, belonging to the subject, which it would be proper to discuss in writing, one of which was the connexion between our embargo and your orders of November, supposed to be implied by my proposal. I remarked that, with an actual result in view, and with a wish to arrive at that result without delay, it could not be advisable to entangle ourselves in a written correspondence, undefined as to its scope and duration, upon topics on which we were not likely to agree ; and that, if I were to frame my note with a knowledge that it was to provoke argument, instead of leading at this crisis to a salutary change in the state of the world, you must be conscious that I too must argue. And where would this end ? To what wholesome consequence would it conduct us ? At the close of the interview I observed that, as the footing upon which the subject was now placed, made delay of no importance, I should take time to prepare such farther proceeding as the occasion required.

On the 26th of August, I had the honour to see you again, and, after entering more at large, than I had before believed to be proper, into a consideration of the effect of my proposal on the equity of adhering to your orders in council ; and, after reading to you parts of my instructions,

I delivered an official note, in which the proposal was made in the form required.

Something was said at this interview of the affair of the Chesapeake, and the President's proclamation which it is not, I presume, necessary to repeat. It will be sufficient to state, that you asked me what was to be done with these subjects? And that my reply was, that they had no connexion with the present; but that I could say, with confidence, that my government had every disposition to attend to them, with a view to such an adjustment as would be honourable to both parties. I did not suppose that it was expected (for you did not intimate such an expectation) that renewed negotiation upon these points should, as well as the repeal, upon terms, of your orders in council, be invited by a formal overture from the government of America.

I will not trouble you with many observations more.

You state in your letter that "there was one point upon which you were particularly anxious to receive precise information, and upon which, from my candour and frankness, you were fortunate enough to obtain it." This was, "whether in fact the orders in council of November had been known to the government of the United States, previously to the message of the President proposing an embargo, so as to be a moving consideration to that message?" I quote this passage, principally, that I may recall to your recollection that my suggestions upon the subject of it were not made officially, or as being authorized or furnished by any communication from my government, or in answer to any direct inquiries on your part. They were very briefly made, near the close, as I think, of our third interview, in consequence of your intimation, (intended perhaps to amount to an inquiry) that my proposal implied, that the embargo had been produced by the orders of November; to which you added that this could not be admitted, and, (as I comprehended what you said) that it even required to be made the subject of some notice or discussion in writing as intimately connected with my proposal, if it should be brought forward in that shape; and I understood you to assign this as one of the reasons why a written overture was indispensable. In replying to that intimation, and the remarks which followed it, I professed to speak, as I did in fact speak, from general information

only, and disclaimed, as it was my duty to do, all authority to say more upon the nature and origin of the embargo, than I had some time before communicated to you, in obedience to the orders of the President. The purpose of my observations was chiefly to show that there was no inducement for embarking in formal discussions upon this point ; and I assured you that it was not in my power, either as respected instructions from my government, or knowledge of facts to do so. My opinion was, and I spoke accordingly, that it was one of those questions which might be left completely at rest, without the least injury to the wisdom or the justice of our conclusions, upon the great object of our conferences. There could be no objection, however, to my giving you on this head, such conjectural information as I was able. On the contrary, by fully disclosing to you my own materials for forming an opinion upon it, you would be enabled more distinctly to see that I could take no part in any discussion which you might propose to apply to it. And I could not but be assured that any anxiety you might feel to obtain a knowledge of the facts in question, sprung from considerations which had every claim to my respect ; for I knew that your mind was far above the reach of prejudices, which would ascribe the American embargo to participation in the councils or views of your adversary, or of any foreign power whatsoever.

My suggestions were to the following effect : that I believed that no copy of your orders of November had arrived in the United States at the date of the President's message ; that a recent change in the conduct of France to our prejudice did appear to be known ; that intelligence had been received, and a belief entertained, of your intention to adopt some further measure, as a measure of retaliation against France, by which our commerce and our rights would be affected ; that there was reason to conclude that you had actually adopted such a measure ; that, (as I collected from American newspapers) this had appeared from private letters, and the newspapers of this country, received in the United States some days before the message of the President, and probably known to the government ; that, in a word, various information concurred to show that our trade was likely to be assailed by the combined efforts of both the belligerent parties ; and that the embargo was a mea-

sure of wise and peaceful precaution adopted under this view of reasonably anticipated peril.

You observe, in another part of your letter, "that you have always rather wished to refer the argumentative discussion of the subject of the orders in council to the official correspondence which you have more than once been taught to expect me to open upon it." If I should object to any part of this statement, of which the substance is undoubtedly correct, it would be to the words "more than once." Your wish has always appeared to be such as you now represent it, and you had reason to expect that I would commence a written discussion of the orders of November, soon after their publication. I had told you that I should do so, and you had said that there could be no objection to it. But you were afterwards informed, that upon reflection I had determined to leave the subject where it was until I should know the pleasure of my government.

The orders had been officially communicated not to me, but to Mr. Madison, through the British minister at Washington. It seemed therefore, to be proper (unless my instructions should make it otherwise) that the view which the government of the United States took of them, should find its way to you through the same channel; and accordingly, the letters of Mr. Madison to which I have referred in my note of the 23d of August, did open at great length, a discussion, which I could have no inducement to shun, although I did not continue to think myself authorized to commence it.

It only remains to add that your share in our several conversations was, what you represent it to have been, not considerable, and that your manner, although reserved, was as it always is, perfectly friendly.

I need not say that, if in this letter written under the influence of sincere concern that the proposal I had the honour to lay before you has been unsuccessful, any thing is to be found which you could wish to be otherwise than it is, I shall be the first to regret that I have not been able to do justice to my own feelings and intentions.

I have the honour to be, with the highest consideration, &c.

WM. PINKNEY.

The Right Hon. George Canning, &c. &c. &c.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. JAN. 30, 1809.

I TRANSMIT to Congress a letter recently received from our minister at the court of St. James's, covering one to him from the British secretary of state, with his reply. These are communicated, as forming a sequel to the correspondence which accompanied my message to both houses, of the 17th instant.

TH: JEFFERSON.

Mr. Pinkney to Mr. Madison. London, November 25, 1808.

SIR,—I have the honour to send enclosed a copy of a letter received last night from Mr. Canning, in answer to my letter to him of the 10th of last month.

The tone of this letter renders it impossible to reply to it with a view to a discussion of what it contains; although it is not without farther inadvertences as to facts, and many of the observations are open to exception. I intend, however, to combine, with an acknowledgment of the receipt of it, two short explanations. The first will relate to the new and extraordinary conjecture which it intimates, that my authority was *contingent*; and the second will remind Mr. Canning that my letter of the 10th of October does not, as he imagines, leave unexplained the remark, that “the *provisional* nature of my offer to make my proposal in writing, arose out of *circumstances* ;” but on the contrary, that the explanation immediately follows the remark.

The Union is not yet returned from France. Lieut. Gibbon arrived in London more than three weeks ago, and delivered your letter of the 9th of September, with duplicates of papers in the case of the Little William, and copies of letters which lately passed between the department of state and Mr. Erskine.

I have the honour to be, with the highest consideration, &c.

WM. PINKNEY.

The Hon. James Madison, &c. &c. &c.

Mr. Canning to Mr. Pinkney. Foreign Office, November 22, 1803.

SIR,—I regret exceedingly that an unusual and unintermitting pressure of official business has prevented me from finding an earlier opportunity to reply to your letter of the 10th of last month.

The observations which I have to offer upon some parts of that letter, are not, indeed, of such a nature as to make it matter of any great importance whether you receive them a week sooner or later; as they refer less to any point of publick interest to our two governments, than to what has passed personally between ourselves.

But I should have been much mortified if you could have been led to believe me deficient in attention to you; the manner, as well as the substance of the communication which I have had the honour to receive from you, entitling it to the most prompt and candid consideration.

Your understanding of the motives, which induced me to accompany my official note of the 23d of September, with my letter of the same date, is so far imperfect, as that you seem to imagine that the wish to guard against misrepresentation, was the only motive which induced me to write that letter, and that, from that motive alone, I should in any case have troubled you with it: whereas I must have expressed myself very incorrectly indeed, if I did not convey to you the assurance, that, if what had passed between us in conversation had not been referred to by you in your official letter of the 23d August, I certainly should not have thought it necessary or proper to preserve any written record of your verbal communications, which I understood at the time to be confidential, and which I certainly was so far from attempting or intending to "discountenance," that I have no doubt but I expressed myself (as you say I did) in favour of the "course which you adopted as well suited to the occasion." But you state at the same time most correctly, that it was as a "preparatory course that I understood and encouraged this verbal and confidential communication." I never did nor could understand it as being intended to supersede or supply the place of an official overture. I never did nor could suppose that the overture of your government, and the answer

of the British government to it were intended to be intrusted solely to our respective recollections. Accordingly when the period arrived at which you appeared to be prepared to bring forward an official proposal, I did, no doubt, express my expectation that I should receive that proposal in writing.

It is highly probable that I did not (as you say I did not) assign to you as the motive of the wish which I then expressed, my persuasion that written communications are less liable to mistake than verbal ones : because that consideration is sufficiently obvious, and because the whole course and practice of office is in that respect so established and invariable, that I really could not have supposed the assignment of any specifick motive to be necessary, to account for my requiring a written statement of your proposals previous to my returning an official answer to them.

I had taken for granted all along that such would, and such must be, the ultimate proceeding on your part ; however you might wish to prepare the way for it by preliminary conversations.

In framing your note I did not pretend to anticipate how much of what had been stated by you in our several conferences you would think it proper to repeat in writing. But whatever the tenour of your note had been, I should have felt it right to conform strictly to it in the official answer ; avoiding any reference to any part of your verbal communications, except such as, by repeating them in writing, I should see that it was your intention to record as official.

I confess, however, I was not prepared for the mixed course which you actually did adopt, I am persuaded (I am sincerely persuaded) without any intention of creating embarrassment ; that of referring generally to what had passed in our conferences, as illustrative of your official proposition, and as tending to support and recommend it, but without specifying the particular points to which such reference was intended to apply ; a course, which appeared at first sight to leave me no choice, except between the two alternatives of either recapitulating the whole of what you had stated in conversation, for the purpose of comprehending it in the answer, or of confining myself to your written note, at the hazard of being

suspected of suppressing the most material part of your statement.

The expedient to which I had recourse, of accompanying my official note with a separate letter, stating, to the best of my recollection, the substance of what I had heard from you in conversation, appeared to me, after much deliberation, to be the most respectful to you.

Such having been the motives which dictated my letter, I cannot regret that it was written, since it has produced, at a period so little distant from the transaction itself, an opportunity of comparing the impressions left on our minds, respectively, of what passed in our several conferences, and of correcting any erroneous impressions on either side.

There are two points in which our recollections do appear to differ in some degree.

The first relates to the authority which you had, and that which I understood you to state yourself to have, at the time of our first conference, for bringing forward a direct overture, in the name of your government; the second, to the expectation, which I stated myself to have entertained, "more than once," of your opening an official correspondence on the subject of the orders in council.

With respect to the first point, you will give me credit when I assure you that my understanding of what was said by you, not only in the first, but in our second conference, was precisely what I stated it to be in my letter; and you will (I hope) forgive me, if, after the most attentive perusal of your letter of the 10th of October, and after a careful comparison of different passages in it, while I am compelled by your assurance to acknowledge that I must have misapprehended you, I find grounds in your statement to excuse, if not to account for, my misapprehension.

According to your recollection you told me explicitly in our first conference, "that the substance of what you then suggested, that is to say, that our orders being repealed as to the United States, the United States would suspend the embargo as to Great Britain, was from your government; that the manner of conducting and illustrating the subject (upon which you had no precise orders) was your own;"

and you even quoted part of your instructions to me which was to that effect.

In a subsequent paragraph you state, that "nothing can be more correct than my apprehension that you did not make, nor profess to intend making, an overture, in writing, before you had endeavoured to prepare for it such a reception as you felt it deserved, and before you could ascertain what shape it would be most proper to give to that overture, and how it would be met by the British government."

And in another part of your letter you admit, that when you expressed your readiness to make your proposal in writing, it was, (as I have stated) *provisionally*: and you inform me, that "the provisional nature of your offer arose out of circumstances," the nature of which circumstances you do not explain, nor have I any right to require such an explanation.

But, comparing these several statements together, seeing that, in our first interview, you declared no intention of making a proposal in writing, that in our second interview (a month or six weeks afterwards) you described that intention as "*provisional*" and contingent, and protesting at the same time (as I do in the most solemn manner) that I cannot find any trace in my memory of any communication whatever of any part of your instructions communicated to me *as such*; seeing also, that whatever might be the nature and extent of your instructions from the President of the United States, as to the substance of the overture to be made to the British government, the manner, the time, and the conditions of that overture were evidently considered by you as left to your own discretion, it surely may be pardonable in me to have mistaken (as I most unquestionably must have done) the precise limits, at which the authority of your government ended, and your own discretion began, and to have imagined (which I very innocently did) that a proposition over which you appeared to have a power so nearly absolute, was a proposition in a great measure of your own suggestion. I do not mean that I supposed you to bring forward such a measure without reference to the knowledge which you must of course have had of the general feeling, disposition, and intentions of your government, but without its specific instructions for that purpose at that time.

In attributing to you this exercise of judgment, in addition to the many others, which it is confessed you were at liberty to exercise, I really intended to convey no imputation disrespectful to you. I can conceive abundance of cases, in which it would have been not only excusable but highly meritorious.

My mistake, at least, was a very harmless one; as whether the fact were, that you had no precise authority to give in an official proposal, or that you had such an authority, but subject to contingencies which had not occurred, the practical result must be of necessity the same.

What these contingencies might be it is not for me to inquire; but, if they were of the nature of which I now cannot but conjecture they may have been; if the overture which you were authorized to make to the British government was to be shaped and turned according to the result of any other overture to any other government, I am then at once able to account for those appearances which misled me into a belief of the want of a precise authority on your part. This consideration leads me to the other point, on which alone there appears a difference between us upon any matter of fact, but a difference by no means so wide as it appears.

Admitting the general correctness of my statement, of the expectation which I was taught to entertain of a written communication from you on the subject of the orders in council, you add, that it was, however, only in November last, and immediately after the publication of the orders in council, that you had directly announced to me your intention of opening a correspondence upon them; an intention, from which you afterwards desisted, "until you should receive the pleasure of your government:" the correctness of this statement I do not dispute. But you, I am sure, will agree with me, sir, in recollecting how many times "more than once" since the period of that first intention of yours being announced and withdrawn, my expectations that you were about to "receive the pleasure of your government" upon this subject, have been excited by the notification in America, and the destination hither of ships employed by the United States, as it was generally supposed, for the special purpose of conveying representations or proposals from the American government to

the government of France and Great Britain, upon the subject of their respective maritime decrees and orders.

Such was the universal belief, both in America and in England, upon the arrival of the *Osage*, upon that of the *Hope*, of the *St. Michael*, and of another vessel, named, I think, the *Union*. I have, certainly, no right to affirm that you shared in the expectation, which so universally prevailed. I have no right to say that the government of the United States designedly created that expectation. But that it did prevail, and that I very sincerely believed it to be well founded, you, I think, must do me the justice to recollect; as in one instance, at least, that of the *Osage*, so strong was my persuasion that you must have received instructions from your government, that I took the liberty of sending to you to inquire whether you had not some communication to make to me; and received for answer that you had none.

It is to these missions that I particularly referred, when I said that I had "more than once expected you to open a correspondence with me upon the subject of the orders in council." This expectation it was, that alone prevented the sending instructions to Mr. Erskine, to reply to the note addressed to him by Mr. Madison, on the 25th of March, in answer to that note of Mr. Erskine in which he communicated the orders in council, and in allusion to these missions, particularly to that of the *Osage*, and to the expectation which had been founded here upon the return here of that vessel after its voyage to France, it was, that I made that declaration in parliament, which I see has been the subject of some misapprehension (I will not say misrepresentation) in America, that, "since the termination of Mr. Rose's mission, the American government had not made any communication here in the shape of remonstrance, or in a tone of irritation." I am not aware, sir, that there is any other part of your letter which requires that I should trouble you with many observations.

Your report of your answer to the inquiry, which I took the liberty of making, "whether the orders in council of November were known to the government of the United States previously to the message of the President proposing the embargo, was to be a moving consideration to that message," does not appear to differ in any material degree from my statement of it. That your answer to such an

inquiry was official, or authorized by your government, I did not assert nor presume. I have already said that it was not till you had, in your official letter of the 23d of August, referred to what passed in conversation, that I should have thought any such reference allowable on my part; and even then the generality of your reference precluded me from judging correctly, how much of what you had stated in conversation was from official authority, how much from your own personal information or opinion. You inform me that your answer to this question was of the latter description only: but, even if it were only from your individual authority, it was very material, and highly gratifying to learn, that the embargo, which had been sometimes represented, both here and in America, as the direct and immediate consequence of the orders in council of November, and as produced solely by them, was in your opinion, "a measure of *precaution* against reasonably *anticipated* peril."

The purpose of this letter is not to renew the discussion upon the subject of your proposal, but merely to clear up any misunderstanding which had existed between us in the course of that discussion.

I cannot conclude it, however, without adverting very shortly to that part of your letter, in which you argue that the failure of France, in the attempt to realize her gigantic project of the annihilation of the commerce of this country, removes all pretext for the continuance of the retaliating system of Great Britain.

This impotency of the enemy to carry his projects of violence and injustice into execution, might, with more propriety, be pleaded with him as a motive for withdrawing decrees at once so indefensible and so little efficacious for their purpose, than represented as creating an obligation upon Great Britain to desist from those measures of defensive retaliation which those decrees have necessarily occasioned. If the foundation of the retaliating system of Great Britain was (as we contend it to have been) originally just, that system will be justifiably continued in force, not so long only as the decrees which produced it are mischievously operative, but until they are unequivocally abandoned, and, if it be thus consistent with justice to persevere in that system, it is surely no mean motive of policy for such perseverance, that a premature departure from

it, while the enemy's original provocation remains unrepented, might lead to false conclusions, as to the efficacy of the decrees of France, and might hold out a dangerous temptation to that power to resort to the same system on any future occasion; a result, which not Great Britain alone, but all commercial nations are deeply interested in preventing.

I have now, sir, only to express my sense of the candour and liberality with which this discussion has been conducted on your part, and my acknowledgments for the justice which you render to my disposition to treat you at all times with reciprocal respect, and to listen to you with the attention, to which personally, as well as officially, you have every claim.

I cannot forego the hope that it may yet fall to our lot to be instrumental in the renewal of that good understanding between our two governments, which is as congenial to the feelings, as it is essential to the interests of both countries; which nothing but the forced and unnatural state of the world could have interrupted, and which there is on the part of the British government, the most anxious and unabated desire to restore.

I have the honour to be, &c.

GEORGE CANNING.

Mr. Pinkney to Mr. Madison. London, Dec. 3, 1808.

SIR,—I have the honour to send enclosed a copy of my reply to Mr. Canning's letter to me of the 22d ultimo. A copy of the letter, to which it is an answer, was transmitted a few days since by the British packet, and a duplicate has been sent to Liverpool.

The Union is not yet arrived from France; and we have no intelligence of her.

I have the honour to be, &c.

WM. PINKNEY.

The Hon. James Madison, &c. &c. &c.

*Mr. Pinkney to Mr. Canning. Great Cumberland Place,
Nov. 28, 1808.*

SIR,—I have had the honour to receive your letter of the 22d instant, and to transmit a copy of it to my government.

Without desiring to protract a discussion, in the conduct of which neither your sincerity nor mine, will, I feel assured, be doubted by any one, I may be permitted to say, that the authority, under which I acted in our late communications, was not contingent, as you now appear to conjecture, and that the remark contained in my letter of the 10th of October, "that the provisional nature of my offer to make my proposal in writing, arose out of circumstances," will be found explained in the same letter, by passages which immediately follow the remark.

I have said in my letter of October 10, that "I had no precise instructions" as to the "manner of conducting and illustrating the subject" confided to my management; but you will suffer me to enter my friendly protest against all suppositions that "the manner, the time, and the conditions of the overture were left to my own discretion," "that I had the power nearly absolute" over it, or that it was "in a great measure of my own suggestion."

I will trouble you no further, sir, on this occasion than to assure you that nothing could give me more sincere pleasure than to see fulfilled the hope which you express, that it may yet fall to our lot to be instrumental in the renewal of good understanding between our two governments. I have the honour to be, &c.

WILLIAM PINKNEY.

INAUGURAL ADDRESS,

OF JAMES MADISON, PRESIDENT OF THE UNITED STATES.
MARCH 4, 1809.

UNWILLING to depart from examples, of the most revered authority, I avail myself of the occasion now presented, to express the profound impression made on me, by the call of my country to the station, to the duties of which I am about to pledge myself, by the most solemn of sanctions. So distinguished a mark of confidence proceeding from the deliberate and tranquil suffrage of a free and virtuous nation, would, under any circumstances, have commanded my gratitude and devotion, as well as filled me with an awful sense of the trust to be assumed. Under the various circumstances which give peculiar solemnity to the existing period, I feel that both the honour and the responsibility allotted to me, are inexpressibly enhanced.

The present situation of the world is indeed without a parallel; and that of our country full of difficulties. The pressure of these two, is the more severely felt, because they have fallen upon us at a moment when national prosperity being at a height not before attained, the contrast resulting from this change, has been rendered the more striking. Under the benign influence of our republican institutions, and the maintenance of peace with all nations, whilst so many of them were engaged in bloody and wasteful wars, the fruits of a just policy were enjoyed in an unrivalled growth of our faculties and resources. Proofs of this were seen in the improvements of agriculture; in the successful enterprises of commerce; in the progress of manufactures and useful arts; in the increase of the public revenue and the use made of it in reducing the public debt; and in the valuable works and establishments every where multiplying over the face of our land.

It is a precious reflection that the transition from this prosperous condition of our country, to the scene which has for some time been distressing us, is not chargeable on any unwarrantable views, nor, as I trust, on any involuntary errors in the publick councils. Indulging no passions which trespass on the rights or the repose of other nations, it has been the true glory of the United States to cultivate peace by observing justice, and to entitle themselves to the respect of the nations at war, by fulfilling their neutral obligations, with the most scrupulous impartiality. If there be candour in the world, the truth of these assertions will not be questioned. Posterity at least will do justice to them.

This unexceptionable course could not avail against the injustice and violence of the belligerent powers. In their rage against each other, or impelled by more direct motives, principles of retaliation have been introduced, equally contrary to universal reason and acknowledged law. How long their arbitrary edicts will be continued in spite of the demonstrations, that not even a pretext for them has been given by the United States, and of the fair and liberal attempts to induce a revocation of them, cannot be anticipated. Assuring myself that, under every vicissitude, the determined spirit and united councils of the nation will be safe guards to its honour and its essential interests, I repair to the post assigned me with no other discouragement than what springs from my own inadequacy to its high duties. If I do not sink under the weight of this deep conviction, it is because I find some support in a consciousness of the purposes, and a confidence in the principles which I bring with me into this arduous service.

To cherish peace and friendly intercourse with all nations, having correspondent dispositions; to maintain sincere neutrality towards belligerent nations; to prefer in all cases amicable discussion and reasonable accommodation of differences, to a decision of them by an appeal to arms; to exclude foreign intrigues and foreign partialities, so degrading to all countries and so baneful to free ones; to foster a spirit of independence, too just to invade the rights of others; too proud to surrender our own; too liberal to indulge unworthy prejudices ourselves, and too elevated not to look down upon them in others; to hold

the union of the states as the basis of their peace and happiness ; to support the constitution which is the cement of the Union, as well in its limitations as in its authorities ; to respect the rights and authorities reserved to the states and to the people, as equally incorporated with, and essential to the success of the general system ; to avoid the slightest interference with the rights of conscience or the functions of religion, so wisely exempted from civil jurisdiction ; to preserve to their full energy the other salutary provisions in behalf of private and personal rights, and of the freedom of the press ; to observe economy in publick expenditures ; to liberate the publick resources by an honourable discharge of the publick debts ; to keep within the requisite limits a standing military force, always remembering, that an armed and trained militia is the firmest bulwark of republicks, that without standing armies their liberty can never be in danger ; nor, with large ones, safe ; to promote by authorized means, improvements friendly to agriculture, to manufactures, and to external, as well as internal commerce ; to favour, in like manner, the advancement of science and the diffusion of information, as the best aliment to true liberty ; to carry on the benevolent plans which have been so meritoriously applied to the conversion of our aboriginal neighbours from the degradation and wretchedness of savage life, to a participation of the improvements of which the human mind and manners are susceptible in a civilized state. As far as sentiments and intentions such as these can aid the fulfilment of my duty, they will be a resource which cannot fail me.

It is my good fortune, moreover, to have the path in which I am to tread, lighted by examples of illustrious services, successfully rendered in the most trying difficulties by those who have marched before me. Of those of my immediate predecessor, it might least become me here to speak—I may, however, be pardoned for not suppressing the sympathy, with which my heart is full, in the rich reward he enjoys in the benedictions of a beloved country, gratefully bestowed for exalted talents, zealously devoted, through a long career, to the advancement of its highest interest and happiness. But the source to which I look for the aids, which alone can supply my deficiencies, is in the well tried intelligence and virtue of my fellow-citi-

zens, and in the councils of those representing them in the other departments associated in the care of the national interests. In these my confidence will, under every difficulty, be best placed; next to that which we have all been encouraged to feel in the guardianship and guidance of that Almighty Being, whose power regulates the destiny of nations, whose blessings have been so conspicuously dispensed to this rising Republick, and to whom we are bound to address our devout gratitude for the past, as well as our fervent supplications and best hopes for the future.

JAMES MADISON.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO BOTH
HOUSES OF CONGRESS. MAY. 23, 1809.

Fellow citizens of the Senate
and of the House of Representatives,

ON this first occasion of meeting you, it affords me much satisfaction to be able to communicate the commencement of a favourable change in our foreign relations; the critical state of which induced a session of Congress at this early period.

In consequence of the provisions of the act interdicting commercial intercourse with Great Britain and France, our ministers at London and Paris were, without delay, instructed to let it be understood by the French and British governments, that the authority vested in the Executive, to renew commercial intercourse with their respective nations, would be exercised in the case specified by that act.

Soon after these instructions were despatched, it was found that the British government, anticipating, from early proceedings of Congress, at their last session, the state of our laws, which has had the effect of placing the two belligerent powers on a footing of equal restrictions, and relying on the conciliatory disposition of the United States, had transmitted to their legation here, provisional

instructions, not only to offer satisfaction for the attack on the frigate *Chesapeake*, and to make known the determination of his Britannick majesty, to send an envoy extraordinary with powers to conclude a treaty on all the points between the two countries. but, moreover, to signify his willingness, in the mean time, to withdraw his orders in council, in the persuasion that the intercourse with Great Britain would be renewed on the part of the United States.

These steps of the British government led to the correspondence and the proclamation now laid before you ; by virtue of which, the commerce between the two countries will be renewable after the tenth day of June next.

Whilst I take pleasure in doing justice to the councils of his Britannick majesty, which no longer adhering to the policy which made an abandonment by France, of her decrees, a prerequisite to a revocation of the British orders, have substituted the amicable course which has issued thus happily ; I cannot do less than refer to the proposal heretofore made on the part of the United States, embracing a like restoration of the suspended commerce, as a proof of the spirit of accommodation which has at no time been intermitted, and to the result which now calls for our congratulations, as corroborating the principles, by which the publick councils have been guided, during a period of the most trying embarrassments.

The discontinuance of the British orders, as they respect the United States, having been thus arranged, a communication of the event has been forwarded, in one of our publick vessels, to our minister plenipotentiary at Paris ; with instructions to avail himself of the important addition thereby made, to the considerations which press on the justice of the French government a revocation of its decrees, or such a modification of them, as that they shall cease to violate the neutral commerce of the United States.

The revision of our commercial laws, proper to adapt them to the arrangement which has taken place with Great Britain, will doubtless engage the early attention of Congress. It will be worthy, at the same time, of their just and provident care, to make such further alterations in the laws, as will more especially protect and foster the

several branches of manufacture, which have been recently instituted or extended by the laudable exertions of our citizens.

Under the existing aspect of our affairs, I have thought it not inconsistent with a just precaution, to have the gun-boats, with the exception of those at New Orleans, placed in a situation incurring no expense beyond that requisite for their preservation, and conveniency for future service ; and to have the crews of those at New Orleans reduced to the number required for their navigation and safety.

I have thought also, that our citizens detached in quotas of militia, amounting to one hundred thousand, under the act of March, one thousand eight hundred and eight, might, not improperly, be relieved from the state in which they were held for immediate service. A discharge of them has been accordingly directed.

The progress made in raising and organizing the additional military force, for which provision was made by the act of April, one thousand eight hundred and eight, together with the disposition of the troops, will appear by a report which the secretary of war is preparing, and which will be laid before you.

Of the additional frigates required, by an act of the last session, to be fitted for actual service, two are in readiness, one nearly so, and the fourth is expected to be ready in the month of July. A report, which the secretary of the navy is preparing on the subject, to be laid before Congress, will show at the same time, the progress made in officering and manning these ships. It will show also the degree in which the provisions of the act, relating to the other publick armed ships have been carried into execution.

It will rest with the judgment of Congress to decide how far the change in our external prospects may authorize any modifications of the laws relating to the army and navy establishments.

The works of defence for our sea-port towns and harbours have proceeded with as much activity, as the season of the year and other circumstances will admit. It is necessary however to state that the appropriations hitherto made being found to be deficient, a further provision will claim the early consideration of Congress.

The whole of the eight per cent. stock remaining due by the United States, amounting to five millions three hundred thousand dollars, had been reimbursed on the last day of the year 1808. And on the first day of April last, the sum in the treasury exceeded nine and a half millions of dollars. This, together with the receipts of the current year on account of former revenue bonds, will probably be nearly, if not altogether sufficient to defray the expenses of the year. But the suspension of exports and the consequent decrease of importations, during the last twelve months, will necessarily cause a great diminution in the receipts of the year one thousand eight hundred and ten. After that year, should our foreign relations be undisturbed, the revenue will again be more than commensurate to all the expenditures.

Aware of the inconveniences of a protracted session, at the present season of the year, I forbear to call the attention of the legislature to any matters not particularly urgent. It remains therefore only to assure you of the fidelity and alacrity with which I shall co-operate for the welfare and happiness of our country; and to pray that it may experience a continuance of the divine blessings, by which it has been so signally favoured.

JAMES MADISON.

DOCUMENTS

ACCOMPANYING THE MESSAGE FROM THE PRESIDENT OF THE
UNITED STATES. MAY 23, 1809.

Mr. Erskine to Mr. Smith. Washington, April 17, 1809.

SIR,—I have the honour to inform you that I have received his majesty's commands, to represent to the government of the United States, that his majesty is animated by the most sincere desire for an adjustment of the differences which have unhappily so long prevailed between the two countries, the recapitulation of which might have a tendency to impede, if not prevent an amicable understanding.

It having been represented to his majesty's government, that the Congress of the United States, in their proceedings at the opening of the last session, had evinced an intention of passing certain laws, which would place the relations of Great Britain with the United States upon an equal footing, in all respects with the other belligerent powers; I have accordingly received his majesty's commands, in the event of such laws taking place, to offer, on the part of his majesty, an honourable reparation for the aggression committed by a British naval officer, in the attack on the United States' frigate Chesapeake.

Considering the act passed by the Congress of the United States on the 1st of March, (usually termed the non-intercourse act) as having produced a state of equality in the relations of the two belligerent powers with respect to the United States, I have to submit, conformably to instructions, for the consideration of the American government, such terms of satisfaction and reparation, as his majesty is induced to believe will be accepted, in the same spirit of conciliation with which they are proposed.

In addition to the prompt disavowal made by his majesty, on being apprized of the unauthorized act committed by his naval officer, whose recall, as a mark of the king's displeasure, from a highly important and honourable command immediately ensued; his majesty is willing to restore the men forcibly taken out of the Chesapeake, and if acceptable to the American government, to make a suitable provision for the unfortunate sufferers on that occasion.

I have the honour to be, &c.

D. M. ERSKINE.

Hon. Robert Smith, &c. &c. &c.

Mr. Smith to Mr. Erskine. Department of State, April 17, 1809.

SIR,—I have laid before the President your note, in which you have, in the name and by the order of his Britannick majesty, declared that his Britannick majesty is desirous of making an honourable reparation for the aggression committed by a British naval officer in the attack on the United States' frigate the Chesapeake; that in ad-

dition to his prompt disavowal of the act, his majesty, as a mark of his displeasure, did immediately recall the offending officer from a highly important and honourable command, and that he is willing to restore the men forcibly taken out of the Chesapeake, and if acceptable to the American government, to make a suitable provision for the unfortunate sufferers on that occasion.

The government of the United States having, at all times, entertained a sincere desire for an adjustment of the differences, which have so long and so unhappily subsisted between the two countries, the President cannot but receive with pleasure assurances that his Britannick majesty is animated by the same disposition; and that he is ready in conformity to this disposition to make atonement for the insult and aggression committed by one of his naval officers in the attack on the United States' frigate the Chesapeake.

As it appears, at the same time, that in making this offer, his Britannick majesty derives a motive from the equality now existing in the relations of the United States with the two belligerent powers, the President owes it to the occasion and to himself to let it be understood, that this equality is a result incident to a state of things, growing out of distinct considerations.

With this explanation, as requisite as it is frank, I am authorized to inform you, that the President accepts the note delivered by you, in the name and by the order of his Britannick majesty, and will consider the same with the engagement contained therein, when fulfilled, as a satisfaction for the insult and injury of which he has complained.

But I have it in express charge from the President to state, that while he forbears to insist on a farther punishment of the offending officer, he is not the less sensible of the justice and utility of such an example, nor the less persuaded that it would best comport with what is due from his Britannick majesty to his own honour.

I have the honour, &c. &c.

R. SMITH.

Hon. D. M. Erskine, &c. &c. &c. Washington.

Mr. Erskine to Mr. Smith. Washington, April 18, 1809.

SIR,—I have the honour of informing you, that his majesty, having been persuaded that the honourable reparation which he had caused to be tendered for the unauthorized attack upon the American frigate *Chesapeake*, would be accepted by the government of the United States in the same spirit of conciliation with which it was proposed, has instructed me to express his satisfaction, should such a happy termination of that affair take place, not only as having removed a painful cause of difference, but as affording a fair prospect of a complete and cordial understanding being re-established between the two countries.

The favourable change in the relations of his majesty with the United States, which has been produced by the act (usually termed the non-intercourse act) passed in the last session of Congress, was also anticipated by his majesty, and has encouraged a further hope, that a reconsideration of the existing differences might lead to their satisfactory adjustment.

On these grounds and expectations, I am instructed to communicate to the American government, his majesty's determination of sending to the United States, an envoy extraordinary invested with full powers to conclude a treaty on all the points of the relations between the two countries.

In the mean time, with a view to contribute to the attainment of so desirable an object, his majesty would be willing to withdraw his orders in council of January and November, 1807, so far as respects the United States, in the persuasion that the President would issue a proclamation for the renewal of the intercourse with Great Britain, and that whatever difference of opinion should arise in the interpretation of the terms of such an agreement, will be removed in the proposed negotiation.

I have the honour to be, &c.

D. M. ERSKINE.

Hon. Robert Smith, &c. &c. &c.

Mr. Smith to Mr. Erskine. Department of State, April 18, 1809.

SIR,—The note which I had the honour of receiving from you this day, I lost no time in laying before the President, who being sincerely desirous of a satisfactory adjustment of the differences unhappily existing between Great Britain and the United States, has authorized me to assure you, that he will meet with a disposition correspondent with that of his Britannick majesty, the determination of his majesty to send to the United States a special envoy, invested with full powers to conclude a treaty on all the points of the relations between the two countries.

I am further authorized to assure you, that in case his Britannick majesty should, in the mean time, withdraw his orders in council of January and November, 1807, so far as respects the United States, the President will not fail to issue a proclamation by virtue of the authority and for the purposes specified in the eleventh section of the statute, commonly called the non-intercourse act.

I have the honour to be, &c.

R. SMITH.

Mr. Erskine to Mr. Smith. Washington, April 19, 1809.

SIR,—In consequence of the acceptance, by the President, as stated in your letter dated the 18th inst. of the proposals made by me on the part of his majesty, in my letter of the same day, for the renewal of the intercourse between the respective countries, I am authorized to declare that his majesty's orders in council of January and November, 1807, will have been withdrawn, as respects the United States, on the 10th day of June next.

I have the honour to be, &c.

D. M. ERSKINE.

†Hon. Robert Smith, &c. &c. &c.

Mr. Smith to Mr. Erskine. Department of State, April 19, 1809.

SIR,—Having laid before the President your note of this day, containing an assurance, that his Britannick majesty will, on the tenth day of June next, have withdrawn his orders in council of January and November, 1807, so far as respects the United States, I have the honour of informing you that the President will accordingly, and in pursuance of the eleventh section of the statute, commonly called the non-intercourse act, issue a proclamation, so that the trade of the United States with Great Britain may on the same day be renewed, in the manner provided in the said section.

I have the honour to be, &c.

R. SMITH.

By the President of the United States of America.

A PROCLAMATION.

WHEREAS it is provided by the 11th section of the act of Congress, entitled “An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes; that “in case either France or Great Britain shall so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the United States;” the President is authorized to declare the same by proclamation, after which the trade suspended by the said act, and by an act laying an embargo on all ships and vessels in the ports and harbours of the United States, and the several acts supplementary thereto, may be renewed with the nation so doing. And whereas the honourable David Montague Erskine, his Britannick majesty’s envoy extraordinary and minister plenipotentiary, has by the order and in the name of his sovereign declared to this government, that the British orders in council of January and November, 1807, will have been withdrawn, as respects the United States, on the 10th day of June next.

NOW THEREFORE, I, JAMES MADISON, President of the United States, do hereby proclaim, that the orders in

council aforesaid, will have been withdrawn on the said tenth day of June next ; after which day the trade of the United States with Great Britain, as suspended by the act of Congress above mentioned, and an act laying an embargo on all ships and vessels in the ports and harbours of the United States, and the several acts supplementary thereto, may be renewed.

Given under my hand and the seal of the United States, at Washington, the nineteenth day of April, in the [L. S.] year of our Lord, one thousand eight hundred and nine, and of the independence of the United States, the thirty-third.

JAMES MADISON.

By the President.

R. SMITH,
Secretary of State.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE
SENATE. JUNE 15, 1809.

IN compliance with the resolution of the Senate of the 13th instant, I transmit extracts from letters from Mr. Pinkney to the Secretary of State, accompanied by letters and communications to him, from the British secretary of state for the foreign department ; all of which have been received here since the last session of Congress.

To these documents, are added a communication just made by Mr. Erskine to the Secretary of State, and his answer.

JAMES MADISON.

Mr. Canning to Mr. Pinkney. Foreign Office, December 24, 1808.

SIR,—In my official note of the 23d September I stated to you the probability that some alterations might be made in the orders in council, with a view to adapt their opera-

tion more exactly to the altered state of Europe, and to combine all practicable relief to neutrals with a more severe pressure upon the enemy.

As this statement was however only incidental, and as I at the same time disclaimed any intention of taking advantage of such proposed alterations in the discussions then pending between us—seeing that if made, they would not be founded on the admission of the principles for which you were contending, it was perhaps not necessary that I should trouble you with any further communication upon this subject. But the order, of which I have the honour to enclose a copy, having been passed by his majesty in council on Wednesday last, I am desirous, previous to its actual publication, of explaining to you the grounds on which the more extended alterations, which were in contemplation, have been suspended.

It was intended to relax in a certain degree the regulations of the orders in council, with respect to such of the powers in hostility with his majesty as were not, or should not place themselves in a state of hostility with Spain; but at the same time that this relaxation was extended to other powers, to prohibit absolutely by strict, rigorous, and unmitigated blockade, all intercourse whatever with France.

The adoption by these powers, who were to have been the objects of such relaxations, of the views and projects of France with respect to Spain, does away all assignable ground of distinction between France and those powers; and that part, therefore, of the intended alterations does not take place.

The alterations contained in the enclosed orders in council stand upon a separate ground, and, as I have more than once understood from you that the part of the orders in council which this order goes to mitigate is that which was felt most sorely in the United States, I have great pleasure in being authorized to communicate it to you.

I have the honour to be, &c.

GEORGE CANNING.

William Pinkney, Esq.

“ His majesty, in virtue of the powers reserved to him, by two certain acts passed in the forty-eighth year of his majesty's reign, the one entitled “ An act for granting to

his majesty, until the end of the next session of parliament, duties of customs on the goods, wares and merchandises therein enumerated, in furtherance of the provisions of certain orders in council ;” the other entitled “ An act for granting to his majesty, until the end of the next session of parliament, certain duties on the exportation from Ireland, of goods, wares and merchandise therein enumerated,” is pleased, by and with the advice of his privy council to order, and it is hereby ordered, that the operation of the aforesaid acts be suspended as to any duties on exportation, granted by the said acts, so far as relates to articles, being the growth, produce, or manufacture of any country, for the time being, in amity with his majesty, and from the ports of which the British flag is not excluded, imported direct from such country into any port or place of the united kingdom, either in British ships or in ships of the country of which such articles are the growth, produce or manufacture.

“ And his majesty is further pleased, with the advice aforesaid, to order, and it is hereby ordered, that the said duties on exportation be suspended, as to all goods, wares, or merchandise, which have been, or may be condemned as prize until further orders shall be made therein.”

*Mr. Pakeney to Mr. Canning. Great Cumberland Place,
December 28, 1808.*

SIR,—I have had the honour to receive your letter of the 24th instant, communicating an order passed by his majesty in council on Wednesday last, and have transmitted copies of these papers to my government.

It is perfectly true, as the concluding paragraph of your letter supposes me to believe, that the United States have viewed with great sensibility the pretension of this government (which as a pretension, the present order plainly re-asserts, without much, if at all, modifying its practical effect) to levy imposts upon their commerce outward and inward, which the orders in council of the last year were to constrain to pass through British ports.

But it is equally true, that my government has constantly protested against the entire system, with which that pretension was connected, and has in consequence

required the repeal, not the modification, of the British orders in council.

I have the honour to be, &c.

WM. PINKNEY.

Mr. Canning.

Mr. Pinkney, Minister Plenipotentiary of the United States at London, to the Secretary of State. London, March 10, 1809.

EXTRACTS.

"I HAVE received from Mr. Canning a notification of blockade, of which a copy is enclosed."

THE undersigned his majesty's principal secretary of state for foreign affairs has received his majesty's command to acquaint Mr. Pinkney, that his majesty has judged it expedient to establish the most rigorous blockade of the isles of Mauritius and Bourbon ; Mr. Pinkney is therefore requested to apprise the American consuls and merchants residing in England, that the isles above mentioned are and must be considered as being in a state of blockade, and that from this time all the measures authorized by the law of nations and the respective treaties between his majesty and the different neutral powers will be adopted and executed with respect to all vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

GEORGE CANNING.

Foreign Office, March 8th, 1809.

Mr. Pinkney, Minister Plenipotentiary of the United States at London, to Mr. Smith, Secretary of State. London. May 1, 1809.

EXTRACTS.

"I HAD the honour to receive on the 25th of March the letter of your predecessor of the 10th of February ; and on the 15th of last month lieut. Reed delivered to me your letter of the 15th of March.

"Upon the receipt of your letter of the 15th of March, it became my obvious duty to ask a conference with Mr. Canning. It took place accordingly on Monday the 17th of April."

"At the close of the conference he told me that my communications were such as would require reflection, and would naturally make him anxious to see me again; and that he would fix as early a day as possible and give me notice."

"Our next interview took place on the 27th of April."

"Mr. Canning read the new order in council, and then proceeded very briefly to suggest the practical alterations which it would introduce."

"I thought I should best discharge my duty by forbearing useless discussion, and by receiving, as it was offered, but without making myself a party to it, an actual improvement, capable of future extension under the auspices of just and friendly sentiments and enlightened policy."

Foreign Office, April 30, 1809.

SIR,—When I had the honour to transmit to you on the 24th of December last, the orders in council passed on the 21st of that month, I referred to that passage of my official note of the 23d of September, 1808, in which I stated to you, that "It is not improbable indeed that some alterations may be made in the orders in council, as they are at present framed; alterations calculated not to abate their spirit or impair their principle, but to adapt them more exactly to the different state of things which has fortunately grown up in Europe, and to combine all practicable relief to neutrals with a more severe pressure upon the enemy," and I at the same time explained to you the grounds on which the design of the larger alterations which had been in contemplation in September was for the time laid aside. By the order of council which I have now the honour to enclose to you, that design, as explained in my official note of September 23d, is fully carried into execution.

I have the honour to be, &c.

GEORGE CANNING.

William Pinkney, Esq.

[L. S.]

At the Court at the Queen's Palace, the 26th of April, 1809. Present, the King's Most Excellent Majesty in Council.

WHEREAS his majesty, by his order in council of the 11th of November, 1807, was pleased for the reasons assigned therein, to order, that "all the ports and places of France and her allies, or of any other country at war with his majesty, and all other ports or places in Europe, from which although not at war with his majesty the British flag is excluded, and all ports or places in the colonies belonging to his majesty's enemies, should from thenceforth be subject to the same restrictions in point of trade and navigation, as if the same were actually blockaded in the most strict and rigorous manner;" and also to prohibit "all trade in articles which are the produce or manufactures of the said countries or colonies." *And whereas*, his majesty having been nevertheless desirous not to subject those countries which were in alliance or in amity with his majesty, to any greater inconvenience than was absolutely inseparable from carrying into effect his majesty's just determination to counteract the designs of his enemies, did make certain exceptions and modifications expressed in the said order of the 11th of November, and in certain subsequent orders of the 25th of November, declaratory of the aforesaid order of the 11th of November and of the 18th of December, 1807, and the 30th of March, 1808.

And whereas, in consequence of divers events which have taken place since the date of the first mentioned order, affecting the relation between Great Britain and the territories of other powers, it is expedient that sundry parts and provisions of the said orders, should be altered or revoked.

His majesty is therefore pleased, by and with the advice of his privy council, to revoke and annul the said several orders, except as herein after expressed, and so much of the said several orders, except as aforesaid, is hereby revoked accordingly. And his majesty is pleased, by and with the advice of his privy council, to order, and it is hereby ordered that all the ports and places as far

north as the river Ems, inclusively, under the government styling itself the kingdom of Holland, and all ports and places under the government of France, together with the colonies, plantations and settlements in the possession of those governments respectively, and all ports and places in the northern parts of Italy, to be reckoned from the ports of Orbitello and Pesaro inclusively, shall continue and be subject to the same restrictions in point of trade and navigation without any exception, as if the same were actually blockaded by his majesty's naval forces in the most strict and rigorous manner, and that every vessel trading from and to the said countries or colonies, plantations or settlements, together with all goods and merchandise on board, shall be condemned as prize to the captors.

And his majesty is further pleased to order, and it is hereby ordered, that this order shall have effect from the day of the date thereof with respect to any ship, together with its cargo, which may be captured subsequent to such day on any voyage which is, and shall be rendered legal by this order, although such voyage at the time of the commencement of the same was unlawful and prohibited under the said former orders, and such ships upon being brought in shall be released accordingly ; and with respect to all ships, together with their cargoes, which may be captured in any voyage which was permitted under the exceptions of the orders above mentioned, but which is not permitted according to the provisions of this order, his majesty is pleased to order, and it is hereby ordered, that such ships and their cargoes shall not be liable to condemnation unless they shall have received actual notice of the present order before such capture, or in default of such notice, until after the expiration of the like intervals from the date of this order as were allowed for constructive notice in the orders of the 25th of November, 1807, and the 18th of May, 1808, at the several places and latitudes therein specified.

And the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judge of the high court of admiralty and judges of the courts of vice admiralty are to give the necessary directions herein as to them may respectively appertain.

STEPHEN COTTRELL.

Washington, June 15, 1809.

SIR,—I have the honour to enclose a copy of an order of his majesty in council, issued on the 26th of April last.

In consequence of official communications sent to me from his majesty's government since the adoption of that measure, I am enabled to assure you that it has no connexion whatever with the overtures which I have been authorized to make to the government of the United States, and that I am persuaded that the terms of the agreement so happily concluded by the recent negotiation, will be strictly fulfilled on the part of his majesty.

The internal evidence of the order itself, would fully justify the foregoing construction, and moreover it will not have escaped your notice that the repeal has not thereby been made of the orders of the 7th January, 1807, which, according to the engagement I have entered into, on the part of his majesty, is to be abrogated with the other orders, in consequence of the adjustment of differences between the two countries and the confidence entertained of a further conciliatory understanding.

I have the honour to be, &c.

D. M. ERSKINE.

The Hon. Robert Smith, &c. &c. &c.

Department of State, June 15, 1809.

SIR,—I have the honour to acknowledge the receipt of your note of this day, communicating the order in council, issued by his Britannick majesty on the 26th of April last.

However well persuaded the President may at all times have been, that the arrangement so happily effected by the late negotiation would be strictly fulfilled on the part of his Britannick majesty, he has nevertheless received with satisfaction your renewed assurances to that effect, with the further assurance, founded on official communications to you from your government since the adoption of the order in council of the 26th of April, that that order was not intended to have any connexion whatever with the over-

tures which you had been authorized to make to the government of the United States.

I have the honour to be, &c.

R. SMITH.

The Hon. D. M. Erskine, Envoy Extraordinary and Minister Plenipotentiary of his Britannick Majesty.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO BOTH HOUSES OF CONGRESS. NOV. 29, 1809.

Fellow Citizens of the Senate, and
of the House of Representatives,

At the period of our last meeting, I had the satisfaction of communicating an adjustment with one of the principal belligerent nations, highly important in itself, and still more so as presaging a more extended accommodation. It is with deep concern, I am now to inform you, that the favourable prospect has been overclouded, by a refusal of the British government to abide by the act of its minister plenipotentiary, and by its ensuing policy towards the United States, as seen through the communications of the minister sent to replace him.

Whatever pleas may be urged for a disavowal of engagements formed by diplomatic functionaries, in cases where by the terms of the engagements a mutual ratification is reserved ; or where notice at the time may have been given, of a departure from instructions ; or in extraordinary cases, essentially violating the principles of equity ; a disavowal could not have been apprehended in a case, where no such notice or violation existed ; where no such ratification was reserved ; and more especially, where, as is now in proof, an engagement, to be executed without any such ratification was contemplated by the instructions given, and where it had, with good faith, been carried into immediate execution on the part of the United States.

These considerations not having restrained the British government from disavowing the arrangement, by virtue of which its orders in council were to be revoked, and the event authorizing the renewal of commercial intercourse, having thus not taken place; it necessarily became a question of equal urgency and importance, whether the act prohibiting that intercourse was not to be considered as remaining in legal force. This question being, after due deliberation, determined in the affirmative, a proclamation to that effect was issued. It could not but happen, however, that a return to this state of things, from that which had followed an execution of the arrangement by the United States, would involve difficulties. With a view to diminish these as much as possible, the instructions from the Secretary of the Treasury, now laid before you, were transmitted to the collectors of the several ports. If in permitting British vessels to depart, without giving bonds not to proceed to their own ports, it should appear that the tenour of legal authority has not been strictly pursued, it is to be ascribed to the anxious desire which was felt, that no individuals should be injured by so unforeseen an occurrence: and I rely on the regard of Congress for the equitable interests of our own citizens, to adopt whatever further provisions may be found requisite, for a general remission of penalties involuntarily incurred.

The recall of the disavowed minister having been followed by the appointment of a successor, hopes were indulged that the new mission would contribute to alleviate the disappointment which had been produced, and to remove the causes which had so long embarrassed the good understanding of the two nations. It could not be doubted, that it would at least be charged with conciliatory explanations of the step which had been taken, and with proposals to be substituted for the rejected arrangement. Reasonable and universal as this expectation was, it also has not been fulfilled. From the first official disclosures of the new minister, it was found that he had received no authority to enter into explanations relative to either branch of the arrangement disavowed; nor any authority to substitute proposals, as to that branch, which concerned the British orders in council. And finally, that his proposals with respect to the other branch, the attack on the

frigate Chesapeake, were founded on a presumption, repeatedly declared to be inadmissible by the United States, that the first step towards adjustment was due from them; the proposals at the same time, omitting even a reference to the officer answerable for the murderous aggression, and asserting a claim not less contrary to the British laws, and British practice, than to the principles and obligations of the United States.

The correspondence between the department of state and this minister will show, how unessentially the features presented in its commencement have been varied in its progress. It will show also, that forgetting the respect due to all governments, he did not refrain from imputations on this, which required that no further communications should be received from him. The necessity of this step will be made known to his Britannick majesty through the minister plenipotentiary of the United States in London. And it would indicate a want of confidence due to a government which so well understands and exacts what becomes foreign ministers near it, not to infer that the misconduct of its own representative will be viewed in the same light, in which it has been regarded here. The British government will learn, at the same time, that a ready attention will be given to communications, through any channel which may be substituted. It will be happy, if the change in this respect should be accompanied by a favourable revision of the unfriendly policy, which has been so long pursued towards the United States.

With France, the other belligerent, whose trespasses on our commercial rights have long been the subject of our just remonstrances, the posture of our relations does not correspond with the measures, taken on the part of the United States, to effect a favourable change. The result of the several communications made to her government, in pursuance of the authorities vested by Congress in the Executive, is contained in the correspondence of our minister at Paris, now laid before you.

By some of the other belligerents, although professing just and amicable dispositions, injuries materially affecting our commerce have not been duly controlled or repressed. In these cases, the interpositions deemed proper on our part have not been omitted. But it well deserves the consideration of the legislature, how far both the safety and

the honour of the American flag may be consulted, by adequate provisions against that collusive prostitution of it by individuals, unworthy of the American name, which has so much favoured the real or pretended suspicions, under which the honest commerce of their fellow citizens has suffered.

In relation to the powers on the coast of Barbary, nothing has occurred which is not of a nature rather to inspire confidence than distrust, as to the continuance of the existing amity. With our Indian neighbours, the just and benevolent system, continued toward them, has also preserved peace, and is more and more advancing habits favourable to their civilization and happiness.

From a statement which will be made by the secretary of war, it will be seen that the fortifications on our maritime frontier are in many of the ports completed; affording the defence which was contemplated, and that a further time will be required to render complete the works in the harbour of New York, and in some other places. By the enlargement of the works, and the employment of a greater number of hands at the publick armories, the supply of small arms, of an improving quality, appears to be annually increasing, at a rate, that with those made on private contract, may be expected to go far towards providing for the publick exigency.

The act of Congress providing for the equipment of our vessels of war having been fully carried into execution, I refer to the statement of the Secretary of the Navy for the information which may be proper on that subject. To that statement is added a view of the transfers of appropriations, authorized by the act of the session preceding the last, and of the grounds on which the transfers were made.

Whatever may be the course of your deliberations on the subject of our military establishments, I should fail in my duty in not recommending to your serious attention the importance of giving to our militia, the great bulwark of our security, and resource of our power, an organization the best adapted to eventual situations for which the United States ought to be prepared.

The sums which had been previously accumulated in the treasury, together with the receipts during the year ending on the 30th of September last (and amounting to more than

nine millions of dollars) have enabled us to fulfil all our engagements, and to defray the current expenses of government without recurring to any loan. But the insecurity of our commerce, and the consequent diminution of the publick revenue, will probably produce a deficiency in the receipts of the ensuing year, for which, and for other details, I refer to the statements which will be transmitted from the treasury.

In the state which has been presented of our affairs with the great parties to a disastrous and protracted war, carried on in a mode equally injurious and unjust to the United States as a neutral nation, the wisdom of the national legislature will be again summoned to the important decision on the alternatives before them. That these will be met in a spirit, worthy the councils of a nation, conscious both of its rectitude and of its rights, and careful as well of its honour as of its peace, I have an entire confidence. And that the result will be stamped by a unanimity becoming the occasion, and be supported by every portion of our citizens, with a patriotism enlightened and invigorated by experience, ought as little to be doubted.

In the midst of the wrongs and vexations experienced from external causes, there is much room for congratulation on the prosperity and happiness flowing from our situation at home. The blessing of health has never been more universal. The fruits of the seasons, though in particular articles and districts short of their usual redundancy, are more than sufficient for our wants and our comforts. The face of our country every where presents the evidence of laudable enterprise, of extensive capital, and of durable improvement. In a cultivation of the materials, and the extension of useful manufactures, more especially, in the general application to household fabricks, we behold a rapid diminution of our dependence on foreign supplies. Nor is it unworthy of reflection, that this revolution in our pursuits and habits is in no slight degree a consequence of those impolitick and arbitrary edicts, by which the contending nations, in endeavouring each of them to obstruct our trade with the other, have so far abridged our means of procuring the productions and manufactures, of which our own are now taking the place.

Recollecting always, that for every advantage which may contribute to distinguish our lot, from that to which others are doomed by the unhappy spirit of the times, we are indebted to that Divine Providence whose goodness has been so remarkably extended to this rising nation, it becomes us to cherish a devout gratitude, and to implore from the same omnipotent source a blessing on the consultations and measures about to be undertaken for the welfare of our beloved country.

JAMES MADISON.

DOCUMENTS

ACCOMPANYING THE PRESIDENT'S MESSAGE OF NOVEMBER
29, 1809.

CIRCULAR.

Treasury Department, August 9, 1809.

SIR,—You will herewith receive the copy of a proclamation of the President of the United States, announcing that certain British orders in council were not withdrawn on the 10th day of June last, and consequently that the trade renewable, on the event of the said orders being withdrawn, is to be considered as under the operation of the several acts by which such trade was suspended.

The act “to amend and continue in force certain parts of the act entitled “An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes,” passed on the 28th day of June, is therefore in every respect applicable to Great Britain and her dependencies, as well as to France and her dependencies ; any thing in my circular of 29th June last, to the contrary notwithstanding.

It results that from the receipt of this, you must in every instance, except as herein after expressed, refuse clear-

ances for British ports, requiring, as usual, bonds from all vessels bound to permitted ports, in the manner provided by the third section of the act above mentioned. But as many British vessels have or may come into the ports of the United States in consequence of the President's proclamation of the 19th of April last, he directs that you will permit such British vessels to depart without giving bond, either in ballast, or with the cargo on board when notified of the enclosed proclamation : it being however understood that this indulgence shall not be extended to any other vessels than such as are now in the ports of the United States, or such as may hereafter arrive, having sailed from a foreign port before information of the enclosed proclamation shall have been received at such port.

The President also directs, that until a decision from Congress on that unexpected point shall have been obtained, or until otherwise instructed, seizures or prosecutions for supposed contraventions of either the above mentioned act or of the non-intercourse act of 1st March last, arising from acts which would, in conformity with his proclamation of the 19th of April last, have been considered as lawful, shall be suspended in the following cases, viz.

1. All vessels which have entered a British port since the 10th of June last, or which may hereafter enter such port, having sailed for the same, before information of the enclosed proclamation had been received at the port of departure ; so far as relates to any forfeiture or penalty which may accrue or have accrued by reason of their having thus entered a British port.

2. All vessels which have arrived, either from British ports or with British merchandise in the United States subsequent to the 10th of June last ; and also all vessels which may hereafter thus arrive, having sailed for the United States, before information of the enclosed proclamation shall have been received at the port of departure ; so far as relates to any forfeiture or penalty accruing from having arrived or arriving in the United States from British ports or with British merchandise.

3. All vessels now owned by citizens of the United States, and sailing under the American flag, which, being in a foreign port at the time when the enclosed proclamation will be made known at such port, shall with all due diligence depart therefrom, and return without delay to

the United States ; so far as relates to any forfeiture or penalty accruing from their arriving in the United States from British ports, or with British merchandise.

In the above mentioned cases of vessels arriving in the United States, and which are for the present exempted from seizure, the vessels and cargoes may be admitted to entry.

The time when the enclosed proclamation shall have been known at the ports of departure respectively, must be ascertained by the best means in your power ; and you may refer doubtful cases to this department.

Application may of course still be made in all cases for an absolute remission of the forfeitures and penalties in the manner provided for by law ; the instruction herein given to abstain from prosecutions and seizures in the above mentioned cases, being only intended to prevent the expenses and inconvenience to which the parties concerned would otherwise be exposed.

I am, &c.

ALBERT GALLATIN.

The Collector of

By the President of the United States of America,

A PROCLAMATION.

WHEREAS in consequence of a communication from his Britannick majesty's envoy extraordinary and minister plenipotentiary, declaring that the British orders in council of January and November, 1807, would have been withdrawn on the tenth day of June last ; and by virtue of authority given, in such event, by the 11th section of the act of Congress, entitled " An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," I, JAMES MADISON, President of the United States, did issue my proclamation bearing date on the 19th of April last, declaring that the orders in council aforesaid would have been so withdrawn on the said tenth day of June, after which the trade suspended by certain acts of Congress might be renewed ; and whereas it is now officially made known to me that the said orders in council have not been withdrawn agreeably to the communication

and declaration aforesaid; I do hereby proclaim the same, and consequently that the trade renewable on the event of the said orders being withdrawn, is to be considered as under the operation of the several acts by which such trade was suspended.

Given under my hand and the seal of the United States,
at the city of Washington, the ninth day of August,
in the year of our Lord, one thousand eight hundred and nine, and of the independence of the said United States the thirty-fourth.

JAMES MADISON.

By the President,

R. SMITH,
Secretary of State.

Mr. Canning to Mr. Pinkney. Foreign Office, May 27, 1809.

SIR,—According to the intimation which I gave to you in our last conference, I have now the honour to enclose to you a copy of the order in council which his majesty has directed to be issued for the purpose of preventing as far as possible any inconvenience or detriment to the merchants of the United States, who may have entered into commercial speculations on the faith of the unauthorized engagements of Mr. Erskine, previously to the notification in America of his majesty's disavowal of those engagements.

Having had the honour to read to you *in extenso* the instructions with which Mr. Erskine was furnished, it is not necessary for me to enter into any explanation of those points in which Mr. Erskine has acted not only not in conformity, but in direct contradiction to them.

I forbear equally from troubling you, sir, with any comment on the manner in which Mr. Erskine's communications have been received by the American government, or upon the terms and spirit of Mr. Smith's share of the correspondence.

Such observations will be communicated more properly through the minister whom his majesty has directed to proceed to America; not on any special mission (which Mr. Erskine was not authorized to promise, except upon

conditions not one of which he has obtained;) but as the successor of Mr. Erskine, whom his majesty has not lost a moment in recalling.

I have the honour to be, &c.

GEORGE CANNING.

To William Pinkney, Esq. &c. &c. &c.

From the London Gazette, May 27.

At the Court at the Queen's Palace, the 24th of May, 1809, present, the King's Most Excellent Majesty in Council.

WHEREAS his majesty was pleased, by his order in council of the 26th of April last, to declare certain ports and places of the countries which have been lately styled the kingdom of Holland, to be subject to the restrictions incident to a strict and rigorous blockade, as continued from his majesty's former order of the 11th of Nov. 1807; and whereas advices have been received of a certain *provisional* agreement entered into by his majesty's envoy extraordinary and minister plenipotentiary in America, with the government of the United States, whereby it is understood that his majesty's orders in council of the seventh of January, and of the eleventh of November, 1807, shall be withdrawn, so far as respects the United States, on the tenth of June next.

And whereas, although the said *provisional* agreement is not such as was authorized by his majesty's instructions, or such as his majesty can approve, it may already have happened, or may happen, that persons being citizens of the United States may be led by a reliance on the said provisional arrangement, to engage in trade with and to the said ports and places of Holland, contrary to, and in violation of the restrictions imposed by the said orders of the 7th of January and of the 11th of November, 1807, as altered by the order of the 26th of April last; his majesty, in order to prevent any inconveniences that may ensue from the circumstances above recited, is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that the said several orders shall be suspended, so far as is necessary for the protection of vessels of the said United States, so sailing under the faith of the said provisional agreement, viz. That after the 9th day

of June next, no vessel of the United States, which shall have cleared out, between the 19th of April last and the 20th of July ensuing, for any of the ports of Holland aforesaid, from any port of the United States, shall be molested or interrupted in her voyage by the commanders of his majesty's ships or privateers.

And be it further ordered, that no vessels of the United States, which shall have cleared out from any port of America, previous to the twentieth of July next, for any other *permitted port*, and shall, during her voyage, have changed her destination, in consequence of information of the said provisional agreement, and shall be proceeding to any of the ports of Holland aforesaid, shall be molested or interrupted by the commanders of any of his majesty's ships or privateers, unless such vessel shall have been informed of this order on her voyage, and shall have been warned not to proceed to any of the ports of Holland aforesaid, and shall, notwithstanding *such warning*, be found attempting to proceed to any such port.

And it is further ordered, that after the said 9th day of June next, no vessel of the United States, which shall have cleared out for, or be destined to any of the ports of Holland, from any port or place not subject to the restrictions of the said order of the 26th of April last, after notice of such provisional agreement as aforesaid, shall be molested or interrupted in her voyage by the commanders of his majesty's ships or privateers, provided such vessel shall have so cleared out previous to actual notice of this order at such place of clearance, or in default of proof of actual notice previous to the like periods of time, after the date of this order, as are *fixed for constructive* notice of his majesty's order of the eleventh of November, one thousand eight hundred and seven, by the orders of the twenty-fifth November, one thousand eight hundred and seven, and of the eighteenth of May, one thousand eight hundred and eight, at certain places and latitudes therein mentioned, unless such vessel shall have been informed of this order on her voyage, and warned by any of his majesty's ships or privateers not to proceed to any port of Holland, and shall, notwithstanding such warning, attempt to proceed to any such port.

And his majesty is pleased further to order, and it is hereby ordered, that the said *several orders* of the seventh

of January and eleventh of November, one thousand eight hundred and seven, as altered by the said order of the twenty-sixth of April last, shall also be suspended, so far as is necessary for the protection of vessels of the said United States which shall clear out to any ports not declared to be under the restriction of blockade from any port of Holland, between the ninth day of June and the first day of July next; provided always, that nothing that is contained in the present order shall extend, or be construed to extend, to protect any vessels or their cargoes, that may be liable to condemnation or detention for any other cause than the violation of the aforesaid orders of the seventh of January and the eleventh of November, one thousand eight hundred and seven, as altered by the said order of the twenty-sixth of April last.

Provided also, that *nothing* in this order contained shall extend, or be construed to extend, to protect any vessel which shall attempt to enter any port actually blockaded by any of his majesty's ships of war.

And the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretary of state, the lords commissioners of the admiralty, and the judge of high court of admiralty, and the judges of the courts of vice admiralty, are to take the necessary measures herein as to them may respectively appertain.

STEPH. COTTRELL.

*Mr. Pinkney to Mr. Canning. Great Cumberland Place,
May 29, 1809.*

SIR,—I have received the communication which you did me the honour to address to me on the 27th instant, and will hasten to transmit it to the Secretary of State of the United States.

No instructions or information from my government concerning the transactions in America to which your communication alludes having yet reached me, I can only express my concern that the conciliatory arrangements concerted and concluded, as you have done me the honour to inform me, between the American Secretary of State and his majesty's accredited minister at Washington, acting in consequence, and professing to act in pursuance, of

regular instructions from his court, are not likely to have all that effect which was naturally to have been expected from them.

I have the honour to be, &c.

WILLIAM PINKNEY.

The Rt. Hon. George Canning, &c. &c. &c.

Mr. Erskine to Mr. Smith. Washington, July 31, 1809.

SIR,—I have the honour to enclose to you a copy of an order, which was passed by his majesty in council on the 24th of May last.

In communicating this order, it is with the deepest regret that I have to inform you that his majesty has not thought proper to confirm the late provisional agreement which I had entered into with you on the part of our respective governments.

Neither the present time, nor the occasion will afford me a favourable opportunity for explaining to you the grounds and reasons upon which I conceived I had conformed to his majesty's wishes; and to the spirit, at least, of my instructions upon that subject; nor, indeed, would any vindication of my conduct, (whatever I may have to offer,) be of any importance, further than as it might tend to show that no intention existed on my part to practise any deception towards the government of the United States.

I have the satisfaction, however, to call your attention to that part of the enclosed order, which protects the commerce and shipping of the United States, from the injury and inconveniences, which might have arisen to American citizens from a reliance on the provisional agreement before mentioned; and I cannot but cherish a hope that no further bad consequences may result from an arrangement, which I had fully believed would have met his majesty's approbation, and would have led to a complete and cordial understanding between the two countries.

With sentiments of the highest respect, &c.

D. M. ERSKINE.

The Hon. Robert Smith, &c. &c. &c.

The Secretary of State to Mr. Erskine. Department of State, Aug. 9, 1809.

SIR,—I have just received from Mr. Pinkney a letter, enclosing a printed paper, purporting to be a copy of a despatch to you from Mr. Canning, which states among other things that from the report of your conversations with Mr. Madison, Mr. Gallatin and Mr. Smith it appears ;

“ 1st. That the American government is prepared in the event of his majesty’s consenting to withdraw the orders in council of January and November, 1807, to withdraw contemporaneously on its part, the interdiction of its harbours to ships of war, and all non-intercourse and non-importation acts, so far as respects Great Britain, leaving them in force with respect to France and the powers which adopt or act under her decrees.

“ 2d. That America is willing to renounce, during the present war, the pretension of carrying on in time of war all trade with the enemies’ colonies, from which she was excluded during peace.

“ 3d. Great Britain for the purpose of securing the operation of the embargo, and the *bona fide* intention of America, to prevent her citizens from trading with France, and the powers adopting and acting under the French decrees, is to be considered as being at liberty to capture all such American vessels, as may be found attempting to trade with the ports of any of these powers ; without which security for the observance of the embargo, the raising it nominally with respect to Great Britain alone, would in fact, raise it with respect to all the world.”

I have the honour to request you to favour me with such explanations as your candour will at once suggest, in relation to these imputed conversations.

I forbear to express to you, sir, the surprise that is felt at the extraordinary pretensions set forth in this letter of instruction, and especially at the expectation that this government would, as a preliminary, recognise conditions, two of which are so manifestly irreconcilable to the dignity and interest of the United States. I, however, would remark, that had you deemed it proper to have communicated *in extenso* this letter, it would have been impossible for the President to have perceived in its conditions, or

in its spirit, that conciliatory disposition, which had been professed, and which, it was hoped, had really existed.

I have the honour to be, &c.

R. SMITH.

Hon. David M. Erskine, &c. &c. &c.

Mr. Erskine to Mr. Smith. Washington, August 14, 1809.

SIR.—I have the honour to acknowledge the receipt of your letter of the 9th instant, informing me that you had just received a letter from Mr. Pinkney, enclosing a printed paper, purporting to be a copy of a despatch to me from Mr. Canning, which states, among other things, “from the report of your conversations with Mr. Madison, Mr. Gallatin, and Mr. Smith, it appears :

“1st. That the American government is prepared, in the event of his majesty’s consenting to withdraw the orders in council of January and November, 1807, to withdraw contemporaneously, on its part, the interdiction of its harbours to ships of war, and all non-intercourse and non-importation acts so far as respects Great Britain, leaving them in force with respect to France, and the powers which adopt, or act under her decrees.

“2d. That America is willing to renounce, during the present war, the pretension of carrying on, in time of war, all trade with the enemy’s colonies, from which she was excluded during peace.

“3d. Great Britain, for the purpose of securing the operation of the embargo, and the *bona fide* intention of America to prevent her citizens from trading with France, and the powers adopting and acting under the French decrees, is to be considered as being at liberty to capture all such American vessels as may be found attempting to trade with the ports of any of these powers; without which security for the observance of the embargo, the raising it nominally with respect to Great Britain alone, would, in fact, raise it with respect to all the world.”

The explanations which you request from me upon that subject shall be given with candour; and I will proceed, accordingly, to lay before you an abstract of the communications which I made to his majesty’s government, relative to the unofficial conversations which I had

held with Mr. Madison, (then Secretary of State) Mr. Gallatin, and yourself, at the time and upon the occasion alluded to by his majesty's secretary of state (Mr. Canning) in that part of his instructions to me, of which you inform me you have received a printed copy from Mr. Pinkney.

Upon referring to my despatches, addressed to his majesty's government of the 3d and 4th of December last, in which these communications are detailed, I conclude that the conversations alluded to must have been held some days previous to that period, and were to the following effect.

Mr. Madison (then Secretary of State) is represented by me to have urged various arguments tending to prove that the United States had exerted all their efforts to persuade the French government to withdraw their unjust restrictions upon neutral commerce, and that recourse might have been had to measures of more activity and decision against France than mere remonstrances, but that, in the mean time, Great Britain had issued her orders in council, before it was known whether the United States would acquiesce in the aggressions of France, and thereby rendered it impossible to distinguish between the conduct of the two belligerents, who had equally committed aggressions against the United States.

After some other observations, Mr. Madison is stated by me at that time to have added, that as the world must be convinced that America had in vain taken all the means in her power to obtain from Great Britain and France a just attention to her rights as a neutral power, by representations and remonstrances, that she would be fully justified in having recourse to hostilities with either belligerent, and that she only hesitated to do so from the difficulty of contending with both; but that she must be driven even to endeavour to maintain her rights against the two greatest powers in the world, unless either of them should relax their restrictions upon neutral commerce; in which case, the United States would at once side with that power against the other which might continue its aggressions.

That every opinion which he entertained respecting the best interests of his country led him to wish that a good understanding should take place between Great Britain

and the United States, and that he thought that the obvious advantages which would thereby result to both countries were a sufficient pledge of the sincerity of his sentiments.

These observations, sir, I beg leave to remark, were made to me by Mr. Madison, about a month after the intelligence had been received in this country of the rejection by his majesty's government of the proposition made through Mr. Pinkney by the President for the removal of the embargo as respects Great Britain, upon condition that the orders in council should be withdrawn as respected the United States; and his sentiments were, as I conceived, expressed to me, in order that I might convey them to his majesty's government, so as to lead to a reconsideration of the proposition above mentioned, with a view to the adjustment of the differences upon that subject between the respective countries. But I never considered that Mr. Madison meant that the government of the United States would pledge themselves beyond the proposition respecting the embargo as above stated, because that was the extent of the power of the President by the constitution of the United States.

I understood, very distinctly, that the observations of the Secretary of State were intended to convey an opinion as to what ought and would be the course pursued by the United States, in the event of his majesty's orders in council being withdrawn.

In these sentiments and opinions you concurred, as I collected from the tenour of several conversations which I held with you at that period.

With respect to the second point, as stated in your letter to be contained in a despatch from Mr. Canning, I beg leave to offer the following explanation.

In the course of a private interview I had with Mr. Galatin, (the Secretary of the Treasury) he intimated that the non-intercourse law, which was then likely to be passed by the Congress, might be considered as removing two very important grounds of difference with Great Britain, viz. the non-importation act, as applicable to her alone, and also the President's proclamation, whereby the ships of Great Britain were excluded from the ports of the United States, while those of France were permitted to enter, but that by the non-intercourse law, both powers were placed

on the same footing. He did not pretend to say that this measure had been taken from any motives of concession to Great Britain; but as in fact, those consequences followed, he conceived they might be considered as removing the two great obstacles to a conciliation.

He adverted also to the probability of an adjustment of another important point in dispute between the two countries, as he said he knew that it was intended by the United States to abandon the attempt to carry on a trade with the colonies of belligerents in time of war, which was not allowed in time of peace, and to trust to the being permitted by the French to carry on such trade in peace, so as to entitle them to a continuance of it in time of war.

As it may be very material to ascertain what "trade with the colonies of belligerents," was, in my conception, meant by Mr. Gallatin, as intended to be abandoned by the United States, I feel no hesitation in declaring that I supposed he alluded to the trade from the colonies of belligerents *direct* to their mother country or to the ports of other belligerents, because the right to such trade had been the point in dispute; whereas the right to carry on a trade from the colonies of belligerents to the United States, had never been called in question, and had been recognised by his majesty's supreme court of admiralty; and the terms even upon which such colonial produce might be re-exported from the United States had been formally arranged in a treaty signed in London by the ministers plenipotentiary of both countries, which was not indeed ratified by the President of the United States; but was not objected to as to that article of it which settled the terms upon which such trade was to be permitted.

Such was the substance, sir, of the unofficial conversations which I had held with Mr. Madison, Mr. Gallatin and yourself, which I did not consider or represent to his majesty's government as intended with any other view than to endeavour to bring about the repeal of the orders in council, by showing that many of the obstacles which had stood in the way of an amicable adjustment of the differences between the two countries were already removed, and that a fair prospect existed of settling what remained; since the United States exhibited a determination to resist the unjust aggressions upon her neutral rights, which was all that Great Britain had ever required: but I certainly

never received any assurances from the American government that they would pledge themselves to adopt the conditions specified in Mr. Canning's instructions as preliminaries; nor did I ever hold out such an expectation to his majesty's government; having always stated to them that in the event of his majesty's thinking it just or expedient to cause his orders in council to be withdrawn, that the President would take off the embargo as respected England, leaving it in operation against France and the powers which adopted, or acted under, her decrees, according to the authority which was vested in him at that time by the Congress of the United States, and that there was every reason to expect that a satisfactory arrangement might be made upon the points of the colonial trade which had been so long in dispute between the two countries.

As to the third condition referred to by you, specified in Mr. Canning's instructions, I have only to remark, that I never held any conversation with the members of the government of the United States relative to it, until my late negotiation; or had ever mentioned the subject to his majesty's government, it having for the first time been presented to my consideration in Mr. Canning's despatch to me of the 23d January, in which that idea is suggested, and is stated to have been assented to by Mr. Pinkney.

It would be unavailing at the present moment to enter upon an examination of the "pretensions set forth in Mr. Canning's letter of instructions" which you are pleased to term "extraordinary."

I consider it, however, to be my duty to declare that, during my negotiation with you which led to the conclusion of the provisional agreement, I found no reason to believe that any difficulties would occur in the accomplishment of the two former conditions, as far as it was in the power of the President of the United States to accede to the first, and consistently with the explanation which I have before given of the second point: on the contrary, I received assurances through you that the President would comply (as far as it was in his power) with the first condition, and that there could be no doubt that the Congress would think it incumbent upon them to assert the rights of the United States against such powers as should adopt or act under the decrees of France as soon as their actual conduct or determination upon that subject could be ascer-

tained ; but that, in the mean time, that the President had not the power, and could not undertake to pledge himself in the formal manner required to that effect.

I received also assurances from you, that no doubt could be reasonably entertained that a satisfactory arrangement might be made in a treaty upon the subject of the second condition mentioned in Mr. Canning's instructions according to my explanation of it in the foregoing part of this letter, but that it necessarily would form an article of a treaty in which the various pretensions of the two countries should be settled.

The third condition you certainly very distinctly informed me could not be recognised by the President, but you added what had great weight in my mind, that you did not see why any great importance should be attached to such a recognition ; because it would be impossible that a citizen of the United States could prefer a complaint to his government on account of the capture of his vessel while engaged in a trade absolutely interdicted by the laws of his country.

Under these circumstances, therefore, finding that I could not obtain the recognitions specified in Mr. Canning's despatch, of the 23d of January (which formed but *one part* of his instructions to me) in the formal manner required, I considered that it would be in vain to lay before the government of the United States the despatch in question, which I was at *liberty* to have done *in extenso* had I thought proper : but as I had such strong grounds for believing that the object of his majesty's government could be attained, though in a different manner, and the spirit, at least, of my several letters of instructions be fully complied with, I felt a thorough conviction upon my mind, that I should be acting in conformity with his majesty's wishes, and, accordingly, concluded the late provisional agreement on his majesty's behalf with the government of the United States.

The disavowal by his majesty is a painful proof to me that I had formed an erroneous judgment of his majesty's views and the intention of my instructions ; and I have most severely to lament, that an act of mine (though unintentionally) should produce any embarrassment in the relations between the two countries.

It is a great consolation to me, however, to perceive that measures have been adopted by both governments to prevent any losses and obviate any inconveniences which might have arisen to the citizens or subjects of either country from a reliance on the fulfilment of that provisional agreement; and I cannot but cherish a hope, that a complete and cordial understanding between the two countries may be effected.

I beg leave to add that it would have given me great happiness to have contributed to so desirable an object, and to offer you the assurance of the great respect and high consideration with which I remain, &c.

D. M. ERSKINE.

The Secretary of the Treasury to Mr. Erskine. Washington, August 13, 1809.

SIR,—I do not believe, that in the conversations we have had respecting the practicability of an adjustment of the differences between the United States and Great Britain, we have ever misunderstood one another. Yet as from Mr. Canning's instructions lately published by your government, it would seem that some opinions are ascribed to several members of this administration, which they did not entertain, it appears necessary to ascertain whether on any point a misapprehension can have taken place.

I will forbear making any observations on what in the instructions is called the third condition, since it is not asserted that that inadmissible proposition was suggested at Washington.

The points embraced in Mr. Canning's first proposition formed the principal topick of our conversations, relative to a revocation of the orders in council. Yet in the manner in which that proposition is expressed it goes farther than had been suggested by the members of this administration. It is sufficiently evident from the proceedings of Congress, both previous and subsequent to the unratified agreement of April last, that the United States intended to continue the restrictions on the commercial intercourse with France, whilst such of her decrees as violated our neutral rights continued in force, and to remove those re-

strictions in relation to Great Britain, in the event of a revocation of the orders in council. But that state of things so far as it related to France, was to result from *our own laws*—known or anticipated by your government when they authorized an arrangement; and it was not proposed by us that the continuance of the non-intercourse with France should be made a condition of that arrangement. Whilst on that subject, I will add an observation, though perhaps not immediately connected with the object of this letter. I think that the object of that proposition, so far as it agreed with your previous understanding of the intentions of this government, has been substantially carried into effect on our part. It is true, that your government might at the date of the instructions have expected from the incipient proceedings of Congress, that Holland would be embraced by the restrictive laws of the United States. Not only however, was the omission nominal, since American vessels were at the time by the decrees of that country refused admission into its ports, but under the same construction of our laws by which the commercial intercourse with Holland was permitted, that with Portugal was also considered as legal in the event of that country being occupied by British troops in the name of the Prince Regent.

It is therefore principally as respects the second condition which relates to the colonial trade, that erroneous inferences might be drawn from the expressions used in Mr. Canning's instructions. Although the subject must have been mentioned here incidentally, and only in a transient manner, as it is one to which I had paid particular attention, and on which my opinion had never varied, I think that I can state with precision in what view I have always considered it, and must have alluded to it.

1. I never could have given countenance to an opinion that the United States would agree, or that it would be proper to make any arrangement whatever, respecting the colonial trade, a condition of the revocation of the orders in council. The two subjects were altogether unconnected, and I am confident that such a proposition was never suggested either by you, or by any member of this administration. Such an arrangement could be effected only by treaty; and it is with a considerable degree of surprise that I see your government now asking not only resistance

to the French decrees, but the abandonment of a branch of our commerce as the price of the revocation of the orders in council. This seems to give a new character to a measure which had heretofore been represented as an act of retaliation reluctantly adopted, and had been defended solely on the ground of a supposed acquiescence on the part of the United States in the injurious decrees of another nation.

2. In the event of a treaty, embracing all the points in dispute, and particularly that of impressments, without which, I trust, no treaty will ever take place, it was my opinion, and I may certainly have expressed it, that if the other subjects of difference were arranged, that respecting the colonial trade would be easily adjusted. I had considered the principles recognised in a former correspondence between lord Hawkesbury and Mr. King, on the subject of the colonial trade, and subsequently again adopted in the treaty negotiated by Messrs. Monroe and Pinkney, as a general basis agreed on under different administrations by both governments, from which neither could now recede, and susceptible only of modifications as to details. The instructions to our ministers in London on that subject, had also been published and were known to your government. I therefore believed that the United States, in the event of a treaty, would still be disposed to wave for the present, in the manner and on the terms contemplated by those instructions, their right to that branch, and to that branch only, of the colonial trade, known by the name of *direct trade*, that is to say, the trade carried directly from belligerent colonies to the belligerents in Europe, when that trade was not permanently, in peace as in war, permitted by the laws of the country to which those colonies belonged. The right to a trade between such colonies and the United States generally, and to that in colonial articles between the United States and other countries, never can, or will in my opinion be abandoned, or its exercise be suspended by this government; on the contrary, it is solely in order to secure, by an express treaty stipulation, that trade against the danger of interruption, and thus by a mutual spirit of accommodation to avoid collisions, that the abandonment of the direct branch can ever be assented to.

Permit me therefore to request, that you will inform me, whether you understood me on those two points, as I certainly meant to be understood; namely, that the relinquishment, during the present war, of what is called the direct trade was alone contemplated; and that no arrangement on that subject was suggested as a condition of the revocation of the orders in council.

I have the honour to be, &c.

ALBERT GALLATIN.

Mr. Erskine to the Secretary of the Treasury. Washington, August 15, 1809.

SIR,—I have the honour to acknowledge the receipt of your letter of the 13th instant, in which you have been pleased to say, that although you “do not believe that, in the conversations we have had respecting the practicability of an adjustment of the differences between the United States and Great Britain, we ever have misunderstood one another; yet as from Mr. Canning’s instructions, lately published by my government, it would seem that some opinions are ascribed to several members of this administration which they did not entertain, it appears necessary to ascertain, whether on any point a misapprehension can have taken place.”

In answer to your inquiries, I have great satisfaction in assuring you, that there appears to have been no misunderstanding respecting the substance or meaning of the conversations which passed between us, as stated in Mr. Canning’s instructions alluded to.

After the most careful perusal of your statement of the purport of our conversations, I cannot discover any material difference from the representation which I have made upon that subject to the Secretary of State, (Mr. Robert Smith) in my letter to him of the 14th instant, to which I will therefore beg to refer you, as I have therein detailed the substance of the conversation, according to my recollection of it; which is, in every respect, essentially the same as that which you seem to have entertained.

During the conversation which we held respecting the practicability of an amicable adjustment of the differences

between the two countries, when the relinquishment by the United States, during the present war, of what is called the colonial trade, was suggested by you, I conceived that you meant, (as you have stated) "the trade carried directly from belligerent colonies to the belligerents in Europe, when that trade was not permanently, in peace as in war, permitted by the laws of the country to which those colonies belonged."

I never supposed that you intended to convey an opinion, that the government of the United States would make any arrangement respecting the colonial trade, as a condition of the revocation of the orders in council, the two subjects being altogether unconnected; nor have I ever represented to his majesty's government that such preliminary pledges would be given.

With sentiments of the highest respect, I have the honour to be, &c.

D. M. ERSKINE.

The Hon. Albert Gallatin, &c. &c.

The Secretary of State to Mr. Jackson. Department of State, October 9, 1809.

SIR,—An arrangement, as to the revocation of the British orders in council, as well as to the satisfaction required in the case of the attack on the Chesapeake frigate, has been made in due form by the government of the United States, with David Montague Erskine, Esq. an accredited minister plenipotentiary of his Britannick majesty. And after it had been faithfully carried into execution on the part of this government, and under circumstances rendering its effects on the relative situation of the United States irrevocable, and in some respects, irreparable, his Britannick majesty has deemed it proper to disavow it, to recall his minister, and to send another to take his place.

In such a state of things, no expectation could be more reasonable, no course of proceeding more obviously prescribed by the ordinary respect due to the disappointed party, than a prompt and explicit explanation, by the new functionary, of the grounds of the refusal, on the part of his government, to abide by an arrangement so solemn-

ly made—accompanied by a substitution of other propositions.

Under the influence of this reasonable expectation, the President has learned, with no less surprise than regret, that in your several conferences with me you have stated :

1. That you have no instructions from your government which authorize you to make any explanations whatever to this government, as to the reasons which had induced his Britannick majesty to disavow the arrangement lately made by your predecessor, and that therefore you could not make any such explanations.

2. That in the case of the Chesapeake, your instructions only authorize you, (without assigning any reason whatever why the reasonable terms of satisfaction, tendered and accepted, have not been carried into effect) to communicate to this government a note tendering satisfaction, with an understanding, that such note should not be signed and delivered by you, until you should have previously seen and approved the proposed answer of this government, and that the signing and the delivery of your note and of the answer of this government, should be simultaneous.

3. That you have no instructions which authorize you to make to this government any propositions whatever, in relation to the revocation of the British orders in council ; but only to receive such as this government may deem it proper to make to you.

4. That, at all events, it is not the disposition or the intention of the British government to revoke their orders in council, as they respect the United States, but upon a formal stipulation on the part of the United States, to accede to the following terms and conditions, viz.

1. That the act of Congress, commonly called the non-intercourse law, be continued against France so long as she shall continue her decrees.

2. That the navy of Great Britain be authorized to aid in enforcing the provisions of the said act of Congress.

3. That the United States shall explicitly renounce, during the present war, the right of carrying on any trade whatever, direct or indirect, with any colony of any enemy of Great Britain, from which they were excluded during peace ; and that this renunciation must extend, not only to the trade between the colony and the mother coun-

try, but to the trade between the colony and the United States.

If in the foregoing representation it should appear, that I have in any instance misapprehended your meaning, it will afford me real pleasure to be enabled to lay before the President a statement corrected agreeably to any suggestions with which you may be pleased to favour me.

To avoid the misconceptions incident to oral proceedings, I have also the honour to intimate, that it is thought expedient that our further discussions, on the present occasion, be in the written form. And with great sincerity I assure you, that whatever communications you may be pleased thus to make, will be received with an anxious solicitude to find them such as may lead to a speedy removal of every existing obstacle to that mutual and lasting friendship and cordiality between the two nations, which it is obviously the interest of both to foster.

I have the honour to be, &c.

R. SMITH.

Mr. Jackson to Mr. Smith. Washington, Oct. 11, 1809.

SIR,—I have had the honour of receiving your official letter of the 9th instant, towards the close of which you inform you, that it had been thought expedient to put an end to all verbal communication between yourself and me, in discussing the important objects of my mission. Considering that a very few days have elapsed since I delivered to the President a credential letter from the king my master, and that nothing has been even alleged to have occurred, to deprive me of the facility of access, and of the credit to which, according to immemorial usage, I am by that letter entitled, I believe there does not exist in the annals of diplomacy a precedent for such a determination between two ministers, who have met for the avowed purpose of terminating amicably the existing differences between their respective countries; but, after mature reflection, I am induced to acquiesce in it by the recollection of the time that must necessarily elapse before I can receive his majesty's commands upon so unexpected an occurrence, and of the detriment that would ensue to the publick service, if my ministerial functions were, in the

interval, to be altogether suspended. I shall therefore content myself with entering my protest against a proceeding which I can consider in no other light, than as a violation, in my person, of the most essential rights of a publick minister when adopted, as in the present case, without any alleged misconduct on his part. As a matter of opinion, I cannot I own, assent to the preference which you give to written, over verbal intercourse for the purpose of mutual explanation and accommodation. I have thought it due to the publick character with which I have the honour to be invested, and to the confidence which his majesty has most graciously been pleased to repose in me, to state to you unreservedly my sentiments on this point. I shall now proceed to the other parts of your letter, and apply to them the best consideration that can arise from a zeal proportioned to the increase of difficulty thus thrown in the way of the restoration of a thorough good understanding between our respective countries.

You state, sir, very truly, that an arrangement had been made between you and Mr. Erskine, and that his majesty had thought proper to disavow that arrangement.

I have here in the outset, to regret the loss of the advantage of verbal intercourse with you, as I should have availed myself of it to inquire whether by your statement, it were your intention to complain of the disavowal itself, or of a total want of explanation of it, or of the circumstance of that explanation not having been made through me. I observe that in the records of this mission there is no trace of a complaint, on the part of the United States, of his majesty having disavowed the act of his minister. You have not in the conferences we have hitherto held, distinctly announced any such complaint, and I have seen with pleasure, in this forbearance, on your part, an instance of that candour, which I doubt not, will prevail in all our communications, inasmuch as you could not but have thought it unreasonable to complain of the disavowal of an act, done under such circumstances, as *could only* lead to the consequences that have actually followed.

It was not known when I left England, whether Mr. Erskine had, according to the liberty allowed him, communicated to you *in extenso* his original instructions. It now appears that he did not. But in reverting to his offi-

cial correspondence, and particularly to a despatch addressed on the 20th of April to his majesty's secretary of state for foreign affairs, I find that he there states, that he had submitted to your consideration the three conditions specified in those instructions, as the ground work of an arrangement which, according to information received from this country, it was thought in England might be made, with a prospect of great mutual advantage.—Mr. Erskine then reports *verbatim et seriatim* your observations upon each of the three conditions, and the reasons which induced you to think that others might be substituted in lieu of them. It may have been concluded between you that these latter were an equivalent for the original conditions; but the very act of substitution evidently shows that those original conditions were in fact very explicitly communicated to you, and by you of course laid before the President for his consideration. I need hardly add, that the difference between these conditions and those contained in the arrangement of the 18th and 19th of April, is sufficiently obvious to require no elucidation; nor need I draw the conclusion, which I consider as admitted by all absence of complaint on the part of the American government, viz.: that under such circumstances his majesty had an undoubted and incontrovertible right to disavow the act of his minister. I must here allude to a supposition, which you have more than once mentioned to me, and by which, if it had any the slightest foundation, this right might perhaps have been in some degree affected. You have informed me that you understood that Mr. Erskine had two sets of instructions, by which to regulate his conduct; and that upon one of them, which had not been communicated either to you or to the publick, was to be rested the justification of the terms finally agreed upon between you and him. It is my duty, sir, solemnly to declare to you, and through you, to the President, that the despatch from Mr. Canning to Mr. Erskine which you have made the basis of an official correspondence with the latter minister, and which was read by the former to the American minister in London, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement with this country on the matter to which it relates.

To return to the immediate subject of your letter. If, sir, it be your intention to state, that no explanation whatever has been given to the American government of the reasons which induced his majesty to disavow the act of my predecessor, I must, in that case, observe that in the instructions conveying to him his majesty's intention, those reasons were very fully and forcibly stated ; and if he has not transmitted them to you, I can only attribute it to the peculiar delicacy and embarrassment of his situation, for which he probably trusted to the President's goodness to make some allowance ; and he might the more reasonably be led to that reliance on it, as a full and ample communication was also made upon the subject by his majesty's secretary of state for foreign affairs to Mr. Pinkney, to whom the whole of Mr. Erskine's original instruction was read, and who it was natural to suppose, would convey to his government so much information upon a very momentous occasion, as would relieve Mr. Erskine from the necessity of entering into minute details of the misunderstanding that had occurred. At all events, no complaint can be substantiated against his majesty's government on this score, seeing that they not only instructed the minister who had made the disavowed arrangement as to the motives which occasioned the disavowal, but also with frankness, promptitude, and a most scrupulous regard to national honour, gave notice to the American minister in London of the disavowal, of the motives of it, and of the precautions spontaneously taken by his majesty to prevent any loss or injury accruing to the citizens of the United States from a reliance on any agreement, however unauthorized, made in his majesty's name. The mere allusion to this latter circumstance dispenses me from further noticing the effects which you describe as being produced upon the United States by the circumstances of this agreement. How far they are irrevocable it is not for me to determine ; but the word *irreparable* seems to imply that a loss had been sustained on the occasion by the publick, or by individuals of this country. So far as his majesty could be by possibility supposed answerable for such an eventual loss, he has, as I have before stated, taken the utmost precautions to avert it.

As to the expectation entertained here, that the explanation of his majesty's share in this transaction should be

made through me, I might content myself with simply observing, that I was not provided with instructions to that effect, because it was known that the explanation in question had already been given. But it accords with the sentiments of his majesty towards this country to observe also, that he considered, that as some time must necessarily elapse between my appointment and my entrance on the duties of my ministry, it would be a more friendly mode of proceeding to state without delay, and through the channels I have already mentioned, the motives that compelled his majesty to disavow the agreement, than to leave the American government in uncertainty in these respects, till the unavoidably protracted period of my arrival in America. I say this in regard to the original notification of his majesty's determination and of the motives of it, which being already made, it could not be supposed in London that a repetition of them would be expected from me; and of course no such case has been foreseen in my instructions. But if, beyond this, any incidental explanation or discussion should be wished for by this government, I came fully prepared to enter into them. I even consider them to have taken place between us. I have certainly derived great satisfaction from the several hours which we have spent in conference upon these subjects, because they have enabled me to remove some misunderstandings, and to retute many misrepresentations, which you yourself informed me of, in regard to the conduct of the British government. I consider such mutual explanations as highly beneficial to a right understanding of the views and interests of the two countries, and I should with much pleasure have renewed them, if you had not informed me that the President had been pleased to prescribe another and a different mode of conducting our negotiations.

I will nevertheless avail myself of that mode which he still permits to repeat to you, that his majesty has authorized me, notwithstanding the ungracious manner in which his former offer of satisfaction for the affair of the Chesapeake was received, to renew that which Mr. Erskine was instructed to make. You have said that you so fully understood the particulars of that offer, that I deem it unnecessary to recapitulate them here; I regret that, since they were so clearly understood by you, you should not

yet have been enabled to state to me, either in our personal communications, or in the letter which I am now answering, whether they are considered by the President as satisfactory, or whether they are such as he ultimately means to accept. You seem not so distinctly to have understood the form of proceeding in this affair, which I took the liberty of suggesting as likely to lead to a satisfactory result, without however at all precluding any other method which might appear preferable to you. My proposal was, not to communicate a note *tendering* satisfaction, but to agree with you beforehand upon the terms of a declaration on the part of his majesty, *which should actually give the satisfaction* (the conditions of which I informed you that I was authorized to carry into immediate execution) and of a counter declaration to be signed by you on the part of the United States, for the purpose of accepting such satisfaction. I expressly stated that this interchange of official documents was not meant by me as the means of conveying to each other our respective sentiments; *that* I understood to be, as is usual, the object of our conferences; and I imagined that the papers to be signed by us respectively, would be the result of those sentiments so communicated, and that by being reciprocally corrected and modified, and simultaneously delivered, they would form one compact by which the two countries would be equally bound. This course of proceeding is conformable to the practice of the courts of Europe on similar occasions. You did not at the time appear to object to it; you even requested me to come the next day prepared with a draft or project of a paper, framed in pursuance to these ideas, and although you desired to refer the subject to the President for his approbation, I do not find in your letter either an expression of his sentiments upon it, or the substitution of any other form that might be more agreeable to him, than the one which I have proposed.

I touch with considerable and very sincere reluctance upon that part of your letter, in which you state that I had not assigned "any reason whatever why the reasonable terms of satisfaction tendered and accepted have not been carried into effect."

I believe that I had observed to you, in the words of my instructions, that if his majesty were capable of being actuated by any desire to retract an offer of reparation

which he had once made, his majesty might be well warranted in doing so, both by the form in which his accredited minister had tendered that reparation, and by the manner in which that tender had been received. I believe that I elucidated this observation by a reference to the particular expressions, which made the terms of satisfaction appear to be unacceptable even to the American government, at the very moment when they were accepted, and which at all events put it totally out of his majesty's power to ratify and confirm any act in which such expressions were contained.

On the subject of his majesty's orders in council, I have had the honour of informing you that his majesty having caused to be made to the government of the United States certain proposals, founded upon principles, some of which were understood to originate in American authorities, and others to be acquiesced in by them; and having afterwards ascertained, in the manner mentioned in a former part of this letter, that the sentiments of the American government were so different from what they were at first understood to be, I was not instructed to renew to you those proposals: nor to press upon your acceptance an arrangement which had been so recently declined, especially as the arrangement itself is become less important, and the terms of it less applicable to the state of things now existing.

Those considerations which were first intimated in Mr. Canning's official letter to Mr. Pinkney of the 23d Sept. 1808, and which, in the process of the following six months, acquired greater weight and influence, induced his majesty, before the result of Mr. Erskine's negotiation was known, to modify the orders in council of November, 1807, by that of the 26th April, 1809.

The effect of this new order is to relieve the system under which the former orders were issued, from that which has always been represented in this country, as the most objectionable and offensive part of it, the option given to neutrals to trade with the enemies of Great Britain through British ports on payment of a transit duty. This was originally devised and intended as a mitigation of what is certainly more correct but more rigid in principle, the total and unqualified interdiction of all trade with the enemy. If, however, this mitigation was felt as

an aggravation, and, as has been sometimes warmly asserted, as an insult, that cause of complaint is now entirely removed. By the order in council of the 26th April, 1809, all trade with France and Holland, and the ports of Italy, comprehended under the denomination of the kingdom of Italy, is simply prohibited altogether. No option is afforded, and consequently no transit duty is required to be paid. In another respect, the order in council of the 26th April must be admitted to be more restrictive than those of November, 1807.

The trade with enemies' colonies which was opened to neutrals at the commencement of the present war by the order in council of the 24th June, 1803, was continued to be left open by those of November, 1807. The order in council of the 26th April retracts this indulgence. But it is to be observed, that since the period, when the orders in council of November, 1807, were issued, the opening of the ports of Spain, of Portugal, of the south of Italy, and of Turkey, has afforded a more ample scope to neutral commerce; and that by the capture of Martinique in addition to that of almost all the colonies of the enemies of Great Britain, together with the blockade of Guadalupe, the extent to which the liberty of commerce with enemies' colonies applied, has been so far narrowed, that there is little of practical hardship in recurring to the rule which, however occasionally mitigated in its application, Great Britain can never cease in principle to maintain. It is farther to be observed, that the order in council of the 26th April, has this operation highly favourable to neutrals, that restricting the regulations of blockade to France, Holland, and their colonies, and to the territories denominated the kingdom of Italy, it lays open to the direct trade of neutrals the ports of the north of Europe. Under the order of the 26th of April, therefore, while there are on the one hand fewer points of difference to stand in the way of a satisfactory arrangement between Great Britain and the United States, it is possible that there may be less temptation to the latter to enter into such an arrangement, as the extent of their commerce may be, if they please, nearly as great under the order in council of the 26th April, as it would be under any arrangement which should affect the indispensable objects to which that order applies; or as it would be even with-

out any such order, so long as France and the powers subservient to France, continue to enforce their decrees. It is, in the same proportion, matter of indifference to Great Britain, whether the order in council be continued, or an arrangement by mutual consent, substituted in its room.

Such, sir, are the grounds on which it has appeared to his majesty to be unnecessary to command me to propose to the government of the United States any formal agreement to be substituted for that which his majesty has been under the necessity of disavowing; but I am directed to receive and discuss with you any proposal which you may be authorized to make to me on this head.

As no disposition has hitherto been shown on your part to make any such proposal, it has been impossible for me to state by anticipation, (nor was I instructed so to do) what might be the answer that I should eventually think it my duty to return to you; consequently I could not have made with that view the statement contained in the fourth section of your letter, and the three subdivisions of it. Such a statement would have been obviously inconsistent with the former part of my overture, which you very correctly record in the third section, viz.—that I was not instructed to make to you any proposal whatever upon this subject. I must necessarily reserve, until I hear from you what proposals it may be deemed proper to make on behalf of the United States, to state in how far they do or do not accord with the instructions which it has pleased his majesty to give me for my guidance in this negotiation.

I will only add, sir, in conclusion of this letter, that his majesty is very sincerely desirous of maintaining a perfect and cordial understanding with the United States, and of bringing to a complete and satisfactory adjustment, all the points of difference that have arisen between the two governments; and that, agreeing as I do with you, most heartily, as to the interest which both nations have in fostering a mutual and solid friendship and cordiality, no zeal or exertions shall be wanting on my part to carry into effect his majesty's commands for this most salutary purpose.

I have the honour to be, &c.

F. J. JACKSON.

From the Secretary of State to Mr. Jackson. Department of State, Oct. 19, 1809.

SIR,—I have had the honour of receiving your letter of the 11th instant.

Before I proceed to the more material topics, which it embraces, it is proper that I should take some notice of your construction which has unhappily converted an intimation of the expediency of conducting in a written form our further discussions, on this particular occasion, into a general prohibition of all verbal communications whatever, and into an unprecedented violation of the most essential rights of a publick minister requiring a formal protest and a resort to the commands of your sovereign.

A recurrence to that intimation cannot fail to show, that its sole object was to avoid, in the *further* discussions of a case of unusual delicacy and importance, the misconceptions well known to be incident to oral proceedings, and of which the diplomatic intercourse between the two governments had furnished so many and such serious proofs; nay, of which your letter itself is an additional illustration. That a change in diplomatic discussions, from an oral to a written form is not without precedent, I cannot refer to one which will be more satisfactory to you, than the intimation recently given by Mr. Canning in the case of the proposal by Mr. Pinkney, on the subject of the orders in council and the embargo, that the discussions which had been previously verbal must thenceforth take a written form. And with this view I take the liberty of recalling your attention to the subjoined extracts (see A. and B.) of letters that passed on that occasion.

On the present, as on that occasion, the change from verbal to written communications was requested after two conferences, and when the subject appeared to one of the parties to have, by those verbal discussions, been brought to a point which required a precise understanding of the views and propositions of the other.

You will, sir, hence perceive, that in maintaining the right which every government has as to the rules of intercourse with foreign functionaries near it, no encroachment has been made or intended on any right or customary privilege belonging to you in that character, nor any

thing done to impede the proper and usual course of negotiation.

You have been sufficiently apprized, by my letter of the 9th, of the light in which the President views the arrangement lately made by your predecessor with this government, and of the grounds on which he has expected a formal and satisfactory explanation of the reasons for the refusal of his Britannick majesty to carry it into effect. He persists in that expectation, and in the opinion that there has been given no explanation that is adequate, either as to the matter or as to the mode.

When one government has been solemnly pledged to another in a mutual engagement by its acknowledged and competent agent, and refuses to fulfil the pledge, it is perfectly clear, that it owes it, both to itself and to the other party to accompany its refusal with a formal and frank disclosure of sufficient reasons for a step, which, without such reasons, must deeply injure its own character, as well as the rights of the party confiding in its good faith.

“To refuse with honour, (says a high authority on public law,) to ratify what has been concluded on by virtue of a full power, it is necessary that the government should have *strong and solid reasons*, and that he show in particular that his minister has violated his instructions.”

Although it is particularly incumbent on the sovereign in such case to show that his instructions have been violated, yet it is not a mere violation of them on immaterial points that will be sufficient. It is indispensably requisite, moreover, that the reasons be *strong and solid*, that they manifestly outweigh, not only the general obligation to abide by what has been so done, but also the disappointment and injury accruing to the other party. And it is worthy of notice that the case under discussion is of a higher character and appeals with greater solemnity to the honour and justice of the refusing party than the case stated in Vattel, inasmuch as the transaction, now disavowed, was not a treaty or convention to be ratified by both parties, previous to an execution by either. It had, according to the terms of it (and this peculiarity appears to have been contemplated by your government) been actually and immediately carried into execution on the part of the United States. The refusal of his Britannick majesty is, therefore, not simply to ratify what had been

satisfied by the other party, but to carry into effect on his part an arrangement which had been carried into full effect, with good faith on the part of the United States. Nay, the case is strengthened by the further peculiarity, that some of the circumstances, attending the execution of the arrangement on the part of the United States, render it unsusceptible of a full equivalent for the refusal to execute it on the other side.

It has not escaped observation that the obligation of your government to tender explanations on this occasion is admitted by your attempt to show that it has been sufficiently done in what passed in conversation between Mr. Canning and Mr. Pinkney, and by the instructions given to Mr. Erskine to communicate such explanations.

With every disposition to view in the most favourable light whatever may affect the relations between the two countries, it is impossible to mistake the conversations of those ministers for a discharge of such a debt to the good faith and reasonable expectations of the United States. Besides that they were mere conversations in a case, requiring the precision and respect of a formal communication, it is certain, that it was neither understood by Mr. Pinkney, nor intended by Mr. Canning, that those conversations were so to be regarded. Mr. Pinkney is explicit on this point. And Mr. Canning himself, after declining to recapitulate in writing what he had verbally remarked, signified to Mr. Pinkney in a letter dated May 27, that his observations on the subject would be more properly made through the successor of Mr. Erskine, who was about to proceed to the United States.

With respect to the instructions on this point given to Mr. Erskine, it might be sufficient to remark that they were never carried into execution; but it may be asked, whether it was a mark of friendly respect to the United States to employ for such a purpose a minister from whom his government had thought proper publicly to withdraw its confidence, and to the peculiar delicacy and embarrassment of whose situation you have yourself referred, as accounting for his not having executed the task imposed upon him.

I must here repeat, what was suggested in my former letter, that the successor of Mr. Erskine is the proper functionary for a proper explanation. Nor can I perceive

the force of your remark that the delay incident to your arrival in the United States rendered it more consistent with the friendly sentiments of his majesty to prefer the other channels for communicating the motives for his disavowal. To your own reconsideration I appeal, whether the course most consonant to those friendly sentiments was not the obvious one of employing the new organ, guarding at the same time against any misconstruction of the delay by apprizing the American government through its minister of the cause of it. The supposition that the delay incident to your mission gave rise to the conversation of Mr. Canning and Mr. Pinkney, is not reconcilable to the correspondence of the latter, which contains no such indication. On the contrary it distinctly shows that he was apprized of the intention to replace Mr. Erskine by a successor whom he regarded as the proper channel for the explanatory communications, that he understood Mr. Canning to be under the same impression, and that he learned from yourself, not more than two days after his conversations with Mr. Canning that you were to sail for the United States within three weeks.

Although it may not have been your intention to have given to this subject a posture which it would not have naturally assumed; yet such has been the tendency of some of your remarks, and particularly of the conclusion you have drawn from the two circumstances, 1st. That no trace of complaint from this government against the disavowal appears in the records of the British mission or was distinctly announced by me in our conferences; and 2d, That from the official correspondence of Mr. Erskine with his government, it appears that although he did not communicate in extenso his original instructions, he submitted to me the three conditions therein specified, and received my observations on each.

If there be no trace of complaint against the disavowal in the archives of the mission, it is because this government could not have entered such complaint before the reasons for the disavowal had been explained, and especially as the explanations were justly and confidently expected through the new functionary. And as to the supposed reserve on my part on this subject, in our several conferences, I did imagine, that my repeated intimations to you of the necessity of satisfactory explanations as to

the disavowal, were sufficient indications of the dissatisfaction of this government with respect to the disavowal itself.

The stress you have laid on what you have been pleased to state as the substitution of the terms finally agreed on, for the terms first proposed, has excited no small degree of surprise. Certain it is, that your predecessor did present for my consideration the three conditions, which now appear in the printed document—that he was disposed to urge them more than the nature of two of them (both palpably inadmissible and one more than merely inadmissible) could permit, and that on finding his first proposals unsuccessful, the more reasonable terms comprised in the arrangement respecting the orders in council were adopted. And what, sir, is there in this to countenance the conclusion you have drawn in favour of the right of his Britannick majesty to disavow the proceeding? Is any thing more common in publick negotiations, than to begin with a higher demand, and, that failing, to descend to a lower? To have, if not two sets of instructions, two, or more than two grades of propositions in the same set of instructions; to begin with what is the most desirable, and to end with what is found to be admissible in case the more desirable should not be attainable. This must be obvious to every understanding, and it is confirmed by universal experience.

What were the real and entire instructions given to your predecessor is a question essentially between him and his government. That he had, or at least, that he believed he had sufficient authority to conclude the arrangement, his formal assurances, during our discussions, were such as to leave no room for doubt. His subsequent letter of 15th June, renewing his assurance to me “that the terms of the agreement so happily concluded by the recent negotiation, will be strictly fulfilled on the part of his majesty,” is an evident indication of what his persuasion then was as to his instructions. And with a view to show what his impressions have been even since the disavowal, I must take the liberty of referring you to the annexed extracts (see C.) from his official letters of the 31st July, and of the 14th of August.

The declaration “that the despatch from Mr. Canning to Mr. Erskine of the 23d January, is the only despatch

by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates," is now for the first time made to this government. And I need hardly add that if that despatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it, and which were at first presented by Mr. Erskine, were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made.

As you have disclaimed any authority to offer explanations for the disavowal, as you have been willing to ascribe the want of such authority to the consideration that other channels had been preferred, and as you have even considered the circumstances under which the arrangement took place to be such as could only lead to a disavowal, and therefore as superceding the necessity of any explanation whatever, it is to be regretted, that you had not deemed it proper to render precise and explicit that part of your letter, which seems to imply that you had, in our conversations in relation to the affair of the Chesapeake, following the words of your instructions, held out not only the manner in which the reparation had been accepted, but even the form in which it had been tendered, as warranting his majesty in even retracting the offer of reparation, and that you had elucidated the observation by a reference to the particular expressions which at all events put it totally out of his power to confirm any act containing them.

Whatever may have been your intention in this part of our conversation, or whatever may be the import of the passage to which I have just alluded, I have now the honour of signifying to you, that I am authorized to receive, in a proper form, whatever explicit explanations you may choose to make with respect to the grounds of this part of the disavowal; and without inquiring whether your authority be derived from instructions that have been addressed to yourself, or that have devolved on you as the successor of the minister, who had declined to execute them.

As you have at the same time been pleased to say, that his Britannick majesty had authorized you to renew the offer of satisfaction which Mr. Erskine was instructed to make, it was also naturally expected that you would in your letter have stated with precision in what that offer

differed from the reparation solemnly tendered by Mr. Erskine, and accepted by the United States, and that you would have shown in what the reparation thus tendered differed from his instructions. And when I had the honour to intimate that, in order to avoid the misconceptions incident to oral proceedings, it was thought expedient that our further discussions on the present occasion should be in the written form, there was no part of the subject to which that intimation applied with more force than the case of the Chesapeake; none on which it was more desirable to avoid misconceptions, and to obtain a precise knowledge of the propositions which you were authorized to make; not only because I did not really understand the particulars of the offer as distinctly as you seem to have supposed, but also because, on that point, and on that alone, you had expressly stated, that you had propositions to make, and that you were authorized to carry them into immediate execution.

On the subject of the orders in council, the President perceives with sentiments of deep regret, that your instructions contemplate, neither an explanation of the refusal of your government to fulfil the arrangement of that branch of the existing differences, nor the substitution of any other plan of adjustment, nor any authority to *conclude* any agreement on that subject, but merely to receive and discuss proposals, that might be made to you on the part of the United States; and these it appears must include a stipulation on the part of the United States to relinquish the trade with the enemies' colonies, even in branches not hitherto interrupted by British orders for capture, and also a sanction to the enforcing of an act of Congress by the British navy.

Were the way properly opened for formal propositions from this government, a known determination on the part of his Britannick majesty to adhere to such extraordinary pretensions, would preclude the hope of success in such advances, whether regard be had to the conditions themselves or to the disposition they indicate, in return for the conciliatory temper which has been evinced by the United States.

As to the demand in relation to the colonial trade, it has been the less apprehended, as it is not in itself connected. nor has it ever before been brought into connexion either

with the case of the orders in council or with that of the Chesapeake. And it was reasonably to be presumed, if the idea of such a condition had in the first instance proceeded from the erroneous belief, that it was not objectionable to the United States, that it would not have been persisted in after that error had been ascertained and acknowledged.

The other demand could still less have been apprehended. Besides the inevitable and incalculable abuses incident to such a license to foreign cruisers, the stipulation would touch one of those vital principles of sovereignty which no nation ought to have been expected to impair. For where would be the difference in principle between authorizing a foreign government to execute and authorizing it to make laws for us. Nor ought it to be supposed, that the sanctions and precautions of a law of the United States in the cases of the prohibited trade in question would prove inefficacious for its purposes.

Had none of those obstacles presented themselves to the course corresponding with the sentiments and dispositions of the President, I should have felt great pleasure in giving you formal assurances of his readiness to execute the conditional authority with which he is invested for restoring in its full extent, as far as it may depend upon the United States, the commercial intercourse of the two countries; and that he would, moreover, be disposed to extend the experiment of a friendly negotiation to every point of difference and of mutual interest between them. If, indeed, in the event of a successful termination of what relates to the case of the Chesapeake, it be thought that a removal of the difficulties arising from the orders in council might be facilitated by comprehending them in a general negotiation, and the operation of the orders can, in the mean time, be suspended, the door might be considered as immediately open to that course of proceeding.

To such a suspension no reasonable objection can be made, if, as you have stated, the orders in council, as now modified, leave the trade of the United States nearly as great as it would be without the existence of such orders, so long as France and the other powers shall continue their decrees, and inasmuch as a discontinuance of their decrees by those powers confessedly requires an immediate and entire revocation of the orders in council.

That a suspension of the orders with a view to their being brought into a general negotiation is more reasonable than a temporary submission to their authority by the United States with that view, is obvious from the reflection that such a submission would necessarily involve a relinquishment of the principle which they have steadfastly asserted ; whereas a discontinuance of the orders in council in the present actual state of things would not be incompatible with the principle on which they were originally founded.

This principle was, as you well know, the necessity of retaliating through neutrals injuries received through a violation of their rights by another belligerent. In the actual state of things, and under the actual modification of the orders in council produced by it, it is admitted by you, that the orders have no practical effect in abridging the commerce of neutrals, and can of course have no retaliating effect on the other belligerents.

Although it cannot be allowed to be true, that the orders in council are no longer injurious to the commerce of the United States, it is certainly true, that they produce no degree of injury to the enemies of Great Britain, that can countenance the retaliating plea alleged in support of them.

What, permit me to ask, is the degree of injury actually accruing to the enemies of Great Britain from her retaliating orders ? According to those orders as now modified, and more especially taking into view along with them the prohibitory law of this country in relation to France, the essential difference between their repeal and their existence consists in this—that in the case of their repeal, as pledged by the arrangement of April, the trade of the United States might be carried on directly with the ports of Holland, whilst during their existence, as at present, it is to be carried on through the contiguous and neighbouring ports. To your own calculations, sir, I submit, whether the inconsiderable effect of this circuit on the prices in Holland, and in the countries supplied through her, can any longer sustain the plea of inflicting distress on an enemy, or palliate the injuries done to a friend by a proceeding so contrary to his sentiments of justice, and which subjects his regular commerce not only to inconvenient channels, but to all the abuses which may result from the suspicions, real or pretended, of interested citizens. You cannot but be sensible, that a perseverance under such circumstances in a system,

which cannot longer be explained by its avowed object, would force an explanation by some object not avowed. What object might be considered as best explaining it is an inquiry into which I do not permit myself to enter, further than to remark that in relation to the United States it must be an illegitimate object.

It remains to make a few observations which are due to the just interest of the United States, and which are invited by yours relating to the order in council of May last.

You seem to consider that measure as comprising the utmost precaution that was in the power of his Britannick majesty to take, for preventing losses, from his disavowal of the engagement of your predecessor, to citizens of the United States, who had resumed their commercial pursuits on the faith of that act.

Without entering into a full view of the inadequacy of the order in that respect, I take the liberty of pointing out the following instances in which it falls essentially short of its declared intention.

1st. The order does not provide for the important case, of vessels returning with cargoes from the ports of Holland.

2d. The exemption from interruption of vessels bound from the United States to Holland was restricted by that order to such as should have departed prior to the 20th of July, at which date it is not certain that the order, which was not officially communicated until the 31st of that month, had even reached any one point of the United States. So that some vessels may have sailed between the limited date and the arrival of the order in the United States, and many from distant ports must have done so after its arrival but before a knowledge of it had become general, all proceeding on the faith of the arrangement, yet all left by the order exposed to capture and condemnation.

3d. The order does not provide for the important case of vessels, which had sailed on the like faith for Dutch ports other than those of Holland.

4th. It does not include in its provisions the extensive list of vessels going indirectly from the United States but directly from foreign ports to those of Holland, nor vessels trading entirely from foreign ports to Holland; and in both these instances proceeding on the faith of the arrangement professed to be respected within the defined period.

It is true, that in these last instances the vessels were not to be captured without an attempt after contrary warning to proceed to those ports. But I need not remind you that the injuries incident to the delay and to the breaking up of such voyages cannot but have been considerable, and will have resulted as manifestly from the disappointed faith in the arrangement, as in the cases specially provided for, and consequently with all other losses fairly resulting from the same bona fide confidence in that act they will fall within the just indemnification for which the principle assumed in the order, is a formal pledge.

I conclude, sir, with pressing on your candid attention, that the least which the President could have looked for in consequence of the disavowal of a transaction such as was concluded by your predecessor and carried faithfully into effect by this government, was an explanation from yours of the disavowal, not through the minister disavowed, but through his successor; an explanation founded on reasons strong and solid in themselves, and presented neither verbally nor vaguely, but in a form comporting with the occasion and with the respect due to the character and the good faith of the disappointed party; that it has been found with much concern, and with not less surprise, that you are charged with no such explanations; that you have apparently wished to bring the subjects, which have been formally and definitively arranged into fresh negotiation, as if no such arrangement had taken place; that one of the cases thus slighted, viz. that of the frigate Chesapeake, is a case for which reparation, not denied to be due, had been previously so long withheld, or rather in which the aggression itself has been spun out to the present moment by the continued detention of the mariners, whose seizure, making a part of the hostility committed against the American frigate, must be regarded in a light analogous to a continued detention of the ship itself; that in the other case, viz. that of the orders in council you are not authorized to tender explanations for the disavowal, or to propose any new arrangement, nor to conclude any agreement, but solely to receive and discuss proposals, which might be made to you, not concealing at the same time, that to be satisfactory they must include two conditions, both inadmissible; one altogether irrelevant to the subject, and the other requiring

nothing less than a surrender of an unalienable function of the national sovereignty.

Notwithstanding these repulsive considerations, such is the disposition of the President to facilitate a final and comprehensive accommodation between the two nations, that he is ready, as I have already had the honour of signifying to you, to favour any mode of bringing about so happy an event that may be found consistent with the honour and the essential interest of the United States.

I have the honour to be, &c.

R. SMITH.

(A.)

*Extract of a Letter from Mr. Pinkney to Mr. Canning.
London, October 10, 1808.*

“AT our first interview, (on the 29th June,) verbal communication was not discountenanced but commended : for after I had made myself understood as to the purpose for which the interview had been requested, you asked me if I thought of taking a more formal course, but immediately added that you presumed I did not, for that the course I had adopted was well suited to the occasion. My reply was in substance that the freedom of conversation was better adapted to our subject and more likely to conduct us to an advantageous conclusion, than the constraint and formality of written intercourse, and that I had not intended to present a note. At the second interview (on the 22d July) it did not occur to me that I had any reason to conclude, and certainly I did not conclude, that verbal communication had not continued to be acceptable as a preparatory course ; and it was not until the third interview (on the 29th July) that it was rejected as inadmissible.”

(B.)

*Extract from Mr. Canning to Mr. Pinkney. November
22, 1808.*

“It is highly probable that I did not (as you say I did not) assign to you as the motive of the wish which I then expressed, my persuasion, that written communications,

are less liable to mistake than verbal ones : because that consideration is sufficiently obvious ; and because the whole course and practice of office is, in that respect, so established and invariable, that I really could not have supposed the assignment of any specifick motive to be necessary to account for my requiring a written statement of your proposals previous to my returning an official answer to them.

“ I had taken for granted all along that such would, and such must, be the ultimate proceeding on your part, however you might wish to prepare the way for it by preliminary conversations.”

(C.)

Extract of a Letter from Mr. Erskine to Mr. Smith. Washington, July 31, 1809.

“ NEITHER the present time, nor the occasion, will afford me a favourable opportunity for explaining to you the grounds and reasons upon which I conceived I had conformed to his majesty’s wishes, and to the spirit, at least, of my instructions upon that subject ; nor, indeed, would any vindication of my conduct, (whatever I may have to offer) be of any importance, further than as it might tend to show that no intention existed on my part to practise any deception towards the government of the United States.”

From the Same to the Same. August 14, 1809.

“ UNDER these circumstances, therefore, finding that I could not obtain the recognitions specified in Mr. Canning’s despatch of the 23d January, (which formed but *one part* of his instructions to me) in the formal manner required, I considered that it would be in vain to lay before the government of the United States the despatch in question, which I was at *liberty* to have done *in extenso*, had I thought proper. But as I had such strong grounds for believing that the object of his majesty’s government could be attained, though in a different manner, and the spirit, at least, of my *several* letters of instructions be fully complied

with, I felt a thorough conviction upon my mind, that I should be acting in conformity with his majesty's wishes; and, accordingly, concluded the late provisional agreement on his majesty's behalf, with the government of the United States.

"The disavowal by his majesty is a painful proof to me that I had formed an erroneous judgment of his majesty's views and the intention of my instructions; and I have most severely to lament that an act of mine (though unintentionally) should produce any embarrassment in the relations between the two countries."

Mr. Jackson to the Secretary of State. Washington, October 23, 1809.

SIR,—The letter which you did me the honour to address to me on the 19th instant, was delivered to me on the following day. I shall, without loss of time, transmit it to my court, where the various and important considerations which it embraces will receive the attention due to them. In the interval, I would beg leave to submit to you the following observations, as they arise out of the communications that have already occurred between us.

In fulfilling a duty which I conceive to be due to my publick character, I have never suggested, nor meant to suggest, that the mode of negotiating prescribed by you on this particular occasion—an occasion selected for the purpose of removing existing differences, was otherwise objectionable, than as it appeared to me to be less calculated, than it does to you, to answer the professed purpose of our negotiation.

It was the general principle of debarring a foreign minister, in the short space of one week after his arrival, and without any previous misunderstanding *with him*, from all personal intercourse, that I thought it right to protest. Since, however, I find by your letter that it is not intended to apply that principle to me, I will only observe, that in the case which you mention to have occurred between Mr. Canning and Mr. Pinkney, the conferences were held under an expectation, at least on the part of the former, of their leading to a written communication; whereas, in ours, I, from the beginning, stated that I had no such communi-

cation to make. There is also this essential difference between the two cases, that Mr. Pinkney was charged to convey an important proposal to his majesty's government, the particulars of which it might be very material to have correctly stated, whilst the object of that part of my conversation, to which you seem to attach the most importance, was to say, that I was not charged to make any proposal whatever.

It could not enter into my view, to withhold from you an explanation, merely because it had been already given, but because, having been so given, I could not imagine, until informed by you, that a repetition of it would be required at my hands. I am quite certain that his majesty's government having complied with what was considered to be the substantial duty imposed upon it on this occasion, would, had this been foreseen, have added to the proofs of conciliatory good faith already manifested, the farther complacency to the wishes of the United States, of adopting the form of communication most agreeable to them; and of giving through me the explanation in question. I have, therefore, no hesitation in informing you, that his majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, because it was concluded in violation of that gentleman's instructions, and altogether without authority to subscribe to the terms of it. These instructions, I now understand by your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were at the time, in substance, made known to you; no stronger illustration, therefore, can be given of the deviation from them which occurred, than by a reference to the terms of your agreement.

Nothing can be more notorious than the frequency with which, in the course of a complicated negotiation, ministers are furnished with a gradation of conditions, on which they may be successively authorized to conclude. So common is the case which you put hypothetically, that in acceding to the justice of your statement, I feel myself impelled to make only one observation upon it, which is, that it does not strike me as bearing upon the consideration of the unauthorized agreement concluded here, inasmuch as in point of fact Mr. Erskine had no such graduated instruction. You are already acquainted with that which

was given, and I have had the honour of informing you that it was the only one by which the conditions on which he was to conclude were prescribed. So far from the terms, which he was actually induced to accept, having been contemplated in that instruction, he himself states that they were substituted by you in lieu of those originally proposed.

It may perhaps be satisfactory, that I should say here, that I most willingly subscribe, on this occasion, to the highly respectable authority which you have quoted, and I join issue with you upon the essentials which that authority requires to constitute a right to disavow the act of a publick minister.

It is not immaterial to observe on the qualification contained in the passage you have quoted, as it implies the case of a minister concluding *in virtue of a full power*. To this it would suffice to answer, that Mr. Erskine *had no full power*; and his act consequently does not come within the range of your quotation; although it cannot be forgotten, that the United States have, at no very distant period, most freely exercised the right of withholding their ratification from even the authorized act of their own diplomatic agent, done under the avowed sanction of a full power.

I conceive that what has been already said establishes, beyond the reach of doubt or controversy, that his majesty's minister did violate his instructions; and the consequent right in his majesty to disavow an act so concluded. That his majesty had *strong and solid reasons* for so doing will appear not only from his instructions having been violated, but from the circumstance that the violation of them involved the sacrifice of a great system of policy, deliberately adopted and acted upon, in just and necessary retaliation of the unprecedented modes of hostility resorted to by his enemy.

There appears to have prevailed throughout the whole of this transaction, a fundamental mistake, which would suggest that his majesty had proposed to propitiate the government of the United States, in order to induce it to consent to the renewal of the commercial intercourse between the two countries; as if such had been the relations between Great Britain and America, that the advantages of that intercourse were wholly on the side of the former:

and as if, in any arrangement, whether commercial or political, his majesty could condescend to barter objects of national policy and dignity for permission to trade with another country.

Without minutely calculating what may be the degree of pressure felt at Paris by the difference in the price of goods whether landed at Havre or at Hamburgh, I will, in my turn, appeal to your judgment, sir, whether it be not a *strong and solid reason*, worthy to guide the councils of a great and powerful monarch, to set bounds to that spirit of encroachment and universal dominion which would bend all things to its own standard? Is it nothing in the present state of the world, when the agents of France authoritatively announce to their victims "that Europe is submitting and surrendering by degrees," that the world should know, that there is a nation which by that divine goodness, so strongly appealed to in the paper to which I allude, (*Angereau's proclamation to the Catalonians*) is enabled to falsify the assertion? Is it not important at such a moment, that Europe and America should be convinced, that from whatever countries honourable and manly resistance to such a spirit may have been banished, it will still be found in the sovereign of the British nation and in the hearts of his subjects?

As to the precautions taken in England to ensure from injury upon this occasion, the citizens of the United States, and which appear to you to be even yet insufficient, I am confident that in every doubtful case the usual liberality of our tribunals will be exercised in determining upon the circumstances of it; and it was at Mr. Pinkney's express requisition, that additional instructions were given to the commanders of his majesty's ships of war and privateers to extend to vessels trading to the colonies, plantations and settlements of Holland, the same exemption from capture and molestation, as was granted to vessels sailing for any of the ports of Holland.

On the subject of return cargoes from those ports, I must observe, that although it was intended to prevent as far as was practicable, the inconveniences likely to be created by the unauthorized agreement made here in April last, yet it was not and could not be intended to obviate all possible inconveniences, even such as might have arisen if no such agreement had ever been made.

If an American vessel had sailed from America for Holland in time of profound peace, or in time of war, the ports of Holland not being at the date of sailing under blockade, it might yet have happened that, in the period between the commencement of such voyage and the arrival of the vessel at the port of destination, a blockade might have been established before that port. The vessel arriving would, in that case, have been warned not to enter the port, and would have been turned away with the loss of the whole object of the voyage. This would be no extraordinary hardship, and would afford no legitimate ground of complaint.

The order in council is far less strict than such a blockade would be, for as much as it provides for the original voyage, commenced in expectation of being admitted to the port of destination, by permitting the entry into the ports of Holland; and it is no just ground of complaint, that it does not superadd to that permission the liberty to re-export a cargo of the enemy's goods or produce.

I beg leave briefly to recapitulate the substance of what I have had the honour to convey to you, as well in a verbal, as in written communications.

I have informed you of the reasons of his majesty's disavowal of the agreement so often mentioned; I have shown them, in obedience to the authority which you have quoted, to be both strong and solid, and such as to outweigh, in the judgment of his majesty's government, every other consideration which you have contemplated; I have shown that that agreement was not concluded in virtue of a full power, and that the instructions given on the occasion, were violated.

Beyond this point of explanation which was supposed to have been attained, but which is now given by the present letter, in the form understood to be most agreeable to the American government, my instructions are prospective; they look to substituting for notions of good understanding, erroneously entertained, practical stipulations on which a real reconciliation of all differences may be substantially founded; and they authorize me not to renew proposals which have already been declared here to be unacceptable; but to receive and discuss any proposal made on the part of the United States, and *eventually* to

conclude a convention between the two countries. It is not of course intended to call upon me to state as a preliminary to negotiation, what is the whole extent of those instructions; they must, as I have before said, remain subject to my own discretion, until I am enabled to apply them to the overtures which I may have the honour of receiving from you.

I have the honour to be, &c.

F. J. JACKSON.

Mr. Jackson to the Secretary of State. Washington, Oct. 27, 1809.

SIR,—Finding by your letter of the 19th instant that, notwithstanding the frequent statements made by me in our conferences of the terms of satisfaction which I am empowered to offer to this country for the unauthorized attack made by one of his majesty's ships of war, upon the frigate of the United States the Chesapeake, I have not had the good fortune to make myself distinctly understood by you, I have the honour to enclose herewith a paper of memoranda, containing the conditions on the basis of which I am ready to proceed to draw up with you the necessary official documents in the form proposed in my letter of the 11th instant, or in any other form upon which we may hereafter agree.

I have the honour to be, &c.

F. J. JACKSON.

Enclosed in Mr. Jackson's Letter of October 27, 1809.

THE President's proclamation of July, 1807, prohibiting to British ships of war the entrance into the harbours of the United States having been annulled, his majesty is willing to restore the seamen taken out of the Chesapeake, on reserving to himself a right to claim in a regular way, by application to the American government, the discharge of such of them (if any) as shall be proved to be either natural born subjects of his majesty, or deserters from his majesty's service.

His majesty is willing to make a provision for the families of such men as were slain on board the Chesapeake in

consequence of the unauthorized attack upon that frigate ; provided that such bounty shall not be extended to the family of any man who shall have been either a natural born subject of his majesty, or a deserter from his majesty's service.

The Secretary of State to Mr. Jackson. Department of State, Nov. 1, 1809.

SIR,—Your letter of the 23d ultimo, which was duly received, would have been sooner acknowledged, had I not by my sickness been rendered for several days utterly unfit for business.

Although the delay and the apparent reluctance, in specifying the grounds of the disavowal of the arrangement with respect to the orders in council, do not correspond with the course of proceeding deemed most becoming the occasion ; yet as the explanation has at length been thus made, it only remains, as to that part of the disavowed arrangement, to regret that such considerations should have been allowed to outweigh the solid objections to the disavowal ; it being understood at the same time that his Britannick majesty perseveres in requiring as indispensable conditions on the part of the United States, an entire relinquishment of the right to trade with enemies' colonies, and also a permission to the British navy to aid in executing a law of Congress ; pretensions which cannot but render abortive all proposals whatever upon this subject, whether made by the United States or by his Britannick majesty.

Whilst you have deemed it proper to offer an explanation with respect to the disavowal of one part of the arrangement, I must remind you that there is not to be found in your letter any like specification of the reasons for the disavowal, nor particularly is it shown that the instructions were violated as to the other part, viz. the case of the Chesapeake ; the case in which in an especial manner an explanation was required, and in which only you professed to have authority to make to this government any overtures.

For the first time it is now disclosed that the subjects arranged with this government by your predecessor, are

held to be not within the authority of a minister plenipotentiary, and that not having had a "full power distinct from that authority his transactions on those subjects might of right be disavowed by his government." This disclosure, so contrary to every antecedent supposition and just inference, gives a new aspect to this business. If the authority of your predecessor did not embrace the subjects in question, so as to bind his government, it necessarily follows, that the only credentials, yet presented by you being the same with those presented by him, give you no authority to bind it; and that the exhibition of a "full power" for that purpose, such as you doubtless are furnished with, is become an indispensable preliminary to further negotiation; or to speak more strictly, was required in the first instance by the view of the matter now disclosed by you. Negotiation without this preliminary would not only be a departure from the principle of equality which is the essential basis of it, but would moreover be a disregard of the precautions and of the self respect enjoined on the attention of the United States by the circumstances which have hitherto taken place.

I need scarcely add, that in the full power alluded to, as a preliminary to negotiation, is not intended to be included either the whole extent or any part of your instructions for the exercise of it. These of course, as you have justly remarked, remain subject to your own discretion.

I abstain, sir, from making any particular animadversions on several irrelevant and improper allusions in your letter not at all comporting with the professed disposition to adjust in an amicable manner the differences unhappily subsisting between the two countries. But it would be improper to conclude the few observations, to which I purposely limit myself, without adverting to your repetition of a language implying a knowledge on the part of this government that the instructions of your predecessor did not authorize the arrangement formed by him. After the explicit and peremptory asseveration that this government had no such knowledge, and that with such a knowledge no such arrangement would have been entered into, the view, which you have again presented of the subject, makes it my duty to apprise you, that such insi-

uations are inadmissible in the intercourse of a foreign minister with a government that understands what it owes to itself.

I have the honour to be, &c.

R. SMITH.

Mr. Jackson to the Secretary of State. Washington, Nov. 4, 1809.

SIR,—When I forwarded to my court your letter of the 19th ultimo. and the answer which I returned to it, I imagined, and I may add I hoped, that the retrospective correspondence, into which you thought it necessary to enter with me had been closed. You will, no doubt, recollect with what reluctance I acquiesced in your intimation on this head; not, as I believe has been seen, from any difficulty in maintaining the justice of the cause which is intrusted to me, but because I was, and still am, of opinion, that this sort of correspondence is not calculated to remove differences and sooth irritations of the most unfortunate tendency. As, however, I had no choice but to renounce, for the present, the hope of effectuating this desirable object, or to pursue it in a manner prescribed in your letter of the 9th ult. so I am now unwillingly compelled to enter upon the consideration of another letter from you under date of the 1st inst. which but too strongly confirms the opinion I before entertained.

Since, sir, it has been judged expedient to confine to a written form this important and interesting discussion; since that mode has been declared by you to be indispensable, I will first appeal to the written communications which have passed between us; and I do this with the greater satisfaction, because I consider it to be the chief cause of the present remarkable state of things, that in speaking of engagements contracted or supposed to have been contracted between the two countries, *understandings* or *implied engagements*, have been allowed to take place of written compacts, and have been considered, in some instances, as having the same validity. It is furthermore necessary to place in the most unequivocal light a topick, which I observe to be constantly and prominently restated in your letters, notwithstanding the repeat-

ed, but as it should seem, fruitless endeavours used in mine, to clear it from the slightest shadow of obscurity.

You say "that it is understood that his Britannick majesty perseveres in requiring as indispensable conditions on the part of the United States, an entire relinquishment of the right to trade with the enemy's colonies, and also a permission to the British navy to aid in executing a law of Congress."

This same statement is contained in your letter of the 9th instant, and represented as the substance of what had fallen from me in our previous conferences. In my answer to that letter, I took the liberty of showing that such a supposition was erroneous, and I have looked in vain to my letter of the 23d, to find in it any suggestion of a similar tenour. I believe, therefore, that by reference to my two letters you will find, that the statement now again brought forward, is contained in neither of them, that it made no part of my previous conversations with you, and that I have in no way given room to suppose, that I ever made any such statement at all.

That before the orders in council can be revoked, their object must be obtained in some other way, is unquestionably true; but you may be assured, sir, that there is no wish whatever entertained in England, that the British navy should be employed in executing a law of Congress. If the proposal that was made upon that subject, and made as you now know, because it was believed to be acceptable here, had been adopted, and had become a matter of compact, between the two countries, and thereby a part, not of the law of Congress, but of the publick law binding upon both parties, and which both would have had a common interest in seeing duly executed; in that case the agency of the British navy would not have had the invidious aspect, which is now attempted to be given to it. At present there is no engagement between the two countries, no laws of Congress which bear a reference to any such engagement, and consequently it cannot be wished to take any share whatever in the execution of those laws.

In regard to the colonial trade I need only observe, that all or nearly all the enemies' colonies are blockaded by British squadrons, it cannot, therefore, be so much an object of solicitude as you imagine, to obtain the relinquishment of the trade of any country to those colonies.

On the contrary you will find it stated in my letter of the 11th ultimo, to be a "matter of indifference whether the order in council (on this subject) be continued, or an arrangement by mutual consent substituted in its room."

When I informed you that the agreement concluded here in April last, had been framed in deviation from the instructions given for the occasion, my explanation was intended to apply to both parts of that agreement: that nothing, required by the most scrupulous accuracy, may be wanting, I now add, that the deviation consisted in not recording in the official document signed here, the abrogation of the President's proclamation of the 2d July, 1807, as well as the two reserves specified in the paper of memoranda enclosed in my official letter to you of the 27th ultimo.

There is another motive for the disavowal of this part of the arrangement, considered to be so strong and so self evident upon the very face of the transaction, that I am not commanded to do more than indicate it in the manner I have already done. By this forbearance his majesty conceives that he is giving an additional pledge of his sincere disposition to maintain a good understanding with the United States.

I am somewhat at a loss to give a distinct reply to that part of your letter which relates to Mr. Erskine's authority to conclude with you in virtue of his general letter of credence, because I do not very distinctly understand the tendency of it. I never before heard it doubted that a full power was requisite to enable a minister to conclude a treaty; or that a mere general letter of credence was insufficient for that purpose.

If it were otherwise, and a government were in all cases to be bound by the act, however unauthorized, of an accredited minister, there would be no safety in the appointment of such a minister, and ratifications would be useless. No full power was given in the present case, because it was not a treaty, but the materials for forming a treaty, that was in contemplation.

In his despatch of the 23d January, Mr. Secretary Canning distinctly says to Mr. Erskine, "upon receiving through you, on the part of the American government, a distinct and official recognition of the three above mentioned conditions, his majesty will lose no time in sending to

America a minister fully empowered to consign them to a formal and regular treaty."

This minister would of course, have been provided with a full power ; but Mr. Erskine was to be guided by his instructions, and had the agreement concluded here been conformable to them, it would without doubt have been ratified by his majesty. I must beg your very particular attention to the circumstance that his majesty's ratification has been withheld, not because the agreement was concluded without a full power, but because it was altogether irreconcilable to the instructions on which it was professedly founded. The question of the full power was introduced by yourself to give weight, by a quotation from a highly respected author, to your complaint of the disavowal ; in answer to which I observed that the quotation did not apply, as Mr. Erskine had no full power. Never did I imagine, or any where attempt to rest, the right of disavowal upon that circumstance : indubitably his agreement would nevertheless have been ratified, had not the instructions, which in this case took the place of a full power, been violated.

I am surprised at the transition by which it appears to you that this part of the subject is connected with the authority empowering me to negotiate with you. It will not, I dare say, have escaped your recollection that I informed you at a very early period of our communications, that in addition to the usual credential letter, his majesty had been pleased to invest me with a full power, under the great seal of his kingdom, for the express purpose of concluding a treaty or convention. I well remember your testifying your satisfaction at the circumstance ; and I have only now to add that I am ready, whenever it suits your convenience, to exchange my full power against that with which you shall be provided for the progress of our negotiation.

I am concerned, sir, to be obliged a second time to appeal to those principles of publick law, under the sanction and protection of which I was sent to this country. Where there is not freedom of communication in the form substituted for the more usual one of verbal discussion, there can be little useful intercourse between ministers ; and one, at least, of the epithets which you have thought proper to apply to my last letter, is such as necessarily abridges that freedom. That any thing therein contained may be irre-

levant to the subject, it is of course competent in you to endeavour to show ; and as far as you succeed in so doing, in so far will my argument lose of its validity ; but as to the propriety of my allusions, you must allow me to acknowledge only the decision of my own sovereign, whose commands I obey, and to whom alone I can consider myself responsible. Beyond this, it suffices that I do not deviate from the respect due to the government to which I am accredited.

You will find that in my correspondence with you, I have carefully avoided drawing conclusions that did not necessarily follow from the premises advanced by me, and last of all should I think of uttering an insinuation, where I was unable to substantiate a fact. To facts, such as I have become acquainted with them, I have scrupulously adhered, and in so doing I must continue, whenever the good faith of his majesty's government is called in question, to vindicate its honour and dignity, in the manner that appears to me best calculated for that purpose.

I have the honour to be, &c.

F. J. JACKSON.

The Secretary of State to Mr. Jackson. Department of State, November 8, 1809.

SIR,—In my letter of the 19th ultimo, I stated to you that the declaration in your letter of the 11th, that the despatch from Mr. Canning to Mr. Erskine of the 23d January was the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it related, was then for the first time made to this government. And it was added that if that despatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it, were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made.

In my letter of the 1st instant, adverting to the repetition in your letter of the 23d ultimo of a language implying a knowledge in this government that the instructions of your predecessor did not authorize the arrangement formed by him, an intimation was distinctly given to you that,

after the explicit and peremptory asseveration that this government had not any such knowledge, and that with such a knowledge, such an arrangement would not have been made, no such insinuation could be admitted by this government.

Finding that in your reply of the 4th inst. you have used a language which cannot be understood but as reiterating and even aggravating the same gross insinuation, it only remains in order to preclude opportunities which are thus abused, to inform you, that no further communications will be received from you, and that the necessity of this determination will, without delay, be made known to your government. In the mean time a ready attention will be given to any communications, affecting the interests of the two nations, through any other channel that may be substituted.

I have the honour to be, &c.

R. SMITH.

MR. OAKLEY, his majesty's secretary of legation, is desired by Mr. Jackson to state to the Secretary of State, that, as Mr. Jackson has been already once most grossly insulted by the inhabitants of the town of Hampton, in the unprovoked language of abuse held by them to several officers bearing the king's uniform, when those officers were themselves violently assaulted and put in imminent danger; he conceives it to be indispensable to the safety of himself, of the gentlemen attached to his mission, and of his family, during the remainder of their stay in the United States, to be provided with special passports or safeguards from the American government. This is the more necessary, since some of the newspapers of the United States are daily using language whose only tendency can be to excite the people to commit violence upon Mr. Jackson's person. In consequence he requests, that the under mentioned names may be inserted in the document to be furnished him.

Francis James Jackson, Mrs. Jackson, their three children, Charles Oakley, Esq. his majesty's secretary of legation, Mr. George Otley, private secretary. *Servants*—Robert Clavring, Francis Martin, William Attre, Charles Beecroft, Richard Lowe, John Price. John Lilly, James

Wright, Amelia George, Mary Smith, Harriet Patten, Martha Wood, Francis Blackwell.

(This note was received at the department of state on the 11th of November.)

Mr. Oakley is desired, by Mr. Jackson, to say to the Secretary of State :

That Mr. Jackson has seen with much regret, that facts which it has been his duty to state in his official correspondence, have been deemed by the American government to afford a sufficient motive for breaking off an important negotiation, and for putting an end to all communication whatever with the minister charged by his sovereign with that negotiation so interesting to both nations, and on one point of which an answer has not even been returned to an official and written overture.

One of the facts alluded to has been admitted by the Secretary of State himself, in his letter of the 19th October, viz. that the three conditions, forming the substance of Mr. Erskine's original instruction were submitted to him by that gentleman. The other, viz. that that instruction is the only one in which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it related, is known to Mr. Jackson by the instructions which he has himself received.

In stating these facts and in adhering to them, as his duty imperiously enjoined him to do, Mr. Jackson could not imagine that offence would be taken at it by the American government, as most certainly none could be intended on his part; but since he has been informed by the Secretary of State that no farther communications will be received from him, he conceives that he has no alternative that is consistent with what is due to the king's dignity, but to withdraw altogether from the seat of the American government, and await the arrival of his majesty's commands upon the unlooked-for turn which has thus been given to his affairs in this country.

Mr. Jackson means to make New York the place of his residence.

Washington, Nov. 13, 1809.

The Secretary of State to Mr. Pinkney. Department of State, Nov. 23, 1809.

SIR,—My letters in the correspondence with Mr. Jackson, already transmitted to you, sufficiently evince the disappointment that was felt, on finding that he had not been charged to make to this government either the frank explanations or the liberal propositions which the occasion manifestly required. Instead of this obvious course of proceeding, it was in the outset perceived that his object was to bring us to resume the subjects of the arrangement of April, in a way that would imply that we were aware that the arrangement was not binding on his government, because made with a knowledge on our part, that Mr. Erskine had no authority to make it; and thus to convert the responsibility of his government for the disavowal, into a reproach on this for its conduct in the action disavowed.

In the first instance, it was deemed best rather to repel his observations argumentatively than to meet them as an offensive insinuation. This forbearance had not the expected effect of restraining him from a repetition of the offence. And even on his further insinuations, nothing more was done than to premonish him of the inadmissibility of so indecorous a course of proceeding. This also being without effect, nothing remained but the step finally taken. And there was the less hesitation in shutting the door to further opportunities for insulting insinuations, as the disclosures he had made, and the spirit of his discussions, had so entirely shut it to the hope of any favourable result from his mission.

I will not dwell on his reluctance to give up the uncertainties of verbal for the precision of written discussion; nor on the *manner* or the *time* of his denial that he had given any room at all for a statement, which, in order to guard against the misconceptions incident to verbal conferences, I had placed before him in writing, with a request that he would point out any inaccuracies, and to which he did not *then* object, otherwise than by intimating, that he could not have made the statement *with the particular view which seemed to be supposed*. Nor will I dwell on the various instances in which partial or inconsistent views of the subject have taken place of its real merits. But it may

not be amiss to make some observations on the correspondence, as it relates to the *justification of his government* in having disavowed the act of his predecessor.

With respect to the orders in council, the *ground* of the disavowal is the *difference* between the arrangement and the printed despatch of Mr. Canning to Mr. Erskine of the 23d of January. According to this despatch, then, the arrangement failed in three points.

1. In not relinquishing the trade of the United States with enemies' colonies.

With respect to this point, it is not necessary at this time to discuss the right to that trade. It is sufficient to remark, 1st. That as the trade is admitted to have become, in the view of Great Britain, of little practical importance, why has it been made a ground of the disavowal, and especially, as important considerations only could, upon principles of public law, have justified a measure of so serious a character? 2. That as the colonial trade is a subject no wise connected either with the orders in council or with the affair of the Chesapeake, why has it been permitted to frustrate an arrangement relating to those subjects, and to those only? 3. That as this condition is alleged to have originated in a supposition that it would be agreeable to the American government, why has it been persisted in after the error was made known by the representation of Mr. Erskine to his government, that neither this nor the other conditions of the despatch of the 23d January were attainable here?

2. Another point in the despatch, and not in the arrangement, is, that the British navy might capture our trade to ports prohibited by the United States.

This condition, too, appears to have had its origin in a mistake of your meaning in a conversation with Mr. Canning, as noted by yourself, and in an inference thence deduced as to the disposition of this government. But this double mistake must have been brought to light in time to have been corrected in the new mission. In urging it, Mr. Canning has taken a ground forbidden by those principles of decorum which regulate and mark the proceedings of governments towards each other. In his despatch the condition is stated to be for the purpose of *securing the bona fide intention* of America to prevent her citizens from trading with France, and certain other powers; in other words, to secure a pledge to that effect against the *mala fide* inten-

tion of the United States. And this despatch, too, was authorized to be communicated *in extenso* to the government of which such language was used. Might it not have been reasonably expected, that such a condition and such observations would, at least on such an occasion, have been given up by a government willing to smooth the way to an amicable settlement of existing differences?

In his zeal to vindicate his government, Mr. Jackson too, has attempted a gloss on this most extraordinary idea of calling on a foreign sovereignty, not indeed to make laws for us, but what is equivalent in principle, to supply a supposed inability to execute them. He calls such an interposition of his government not an execution of the law of Congress, but of a compact binding as a publick law on both parties, and which both would have a common interest in seeing duly executed. On his own principles there ought to be a reciprocity, not only in the execution of the compact, but in the obligation and interest resulting from it. Besides, where there is a reciprocity in compacts between nations, touching attributes of sovereignty, there is always as much of sovereignty gained as is parted with, so that there be no loss nor indignity on either side.

3. The remaining point in the despatch not secured by the arrangement, is that which required that whilst our prohibitory laws should be repealed as to Great Britain, they should be left in force as to France and the powers adopting or acting under her decrees.

This is the condition which alone properly belongs to the subject, and it is to be remarked in the first place, that the British project, of which this condition makes a part, contemplated two things in their nature incompatible; one a repeal of the prohibitory acts as to Great Britain, without waiting for the conclusion of a regular treaty; the other a pledge or engagement for their continuance as to other powers. Now from the nature of our constitution, which in this particular ought to have been attended to by the British government, it is manifest, that the executive authority could have given no such pledge, that the continuance of the prohibitory acts, being a subject of legislative consideration, could not have been provided for until the meeting of the legislature, and that the condition could not therefore but have failed either in the im-

mediate renewal of commerce with Great Britain, or in the immediate engagement that it should not be renewed with France.

The British government ought to have acquiesced in, and indeed ought to have been satisfied with, the attainment of the important object of an immediate repeal of our prohibitory laws and with the consideration that the other object, not immediately attainable, was unnecessary at the time, because the prohibition as to France was then in force, and because there was every reason to infer not only from this fact, but from the spirit of the communications made from time to time and from the overtures before submitted to the British government, that without a repeal of the French decrees, our prohibitory laws would be continued in force against France, and especially in the case of a repeal of the British orders, which would necessarily render a continuance of the French decrees doubly obnoxious.

But if on this head doubts could have been entertained, instead of rejecting the arrangement, ought not the repealing act on our part to have been met with a suspension at least of the orders in council, until it could have been seen whether the non-intercourse law, would or would not have been continued against France. Such a suspension would not have given in any point of view more advantage to the United States than was given to Great Britain by the repeal, which had taken place on their part.

If this reasonable course could not have been substituted for the disavowal, why was not a final disavowal suspended with a proposition that the arrangement would be executed by Great Britain in the event of a compliance on the part of the United States with the condition required as to France?

I am not unaware you may be told that the non-intercourse law of the United States did not extend to Holland, though so intimately connected with France and so subservient to her decrees against neutral commerce.

It would not be improper on this occasion to observe, that this objection can be the less urged by Great Britain as she has herself never in her alleged retaliations adhered to the principle on which they were founded.

Thus she has from the date of them, until very lately, directed them against the American trade even to Russia,

although Russia had never adopted the French decrees, nor otherwise violated our neutral trade with Great Britain. So in her order of April last, she has discriminated, not only between the countries devoted to France by the ties of blood, and other powers, but between Holland, Westphalia and Naples, in enforcing her prohibitory order against the first, and not against the two last. Whilst therefore she finds it expedient to make these distinctions, she ought to presume that we too may perceive equal propriety in the distinctions we have made.

But it may be of more importance here to compare the British order in council of April last with the arrangement of April made by Mr. Erskine. It will thence be seen how little is the real difference, and how trivial it is when compared to the extensive and serious consequences of the disavowal.

Under the order in council of April, all the ports of Europe, except France, including the kingdom of Italy and Holland with their dependencies, are opened to our commerce.

Under the arrangement of April combined with our act of non-intercourse, all the ports of Europe except France and her dependencies, including the kingdom of Italy would have been opened to our commerce.

The difference then is reduced merely to Holland, and that again is reduced to the difference between a direct trade to the ports of Holland and an indirect trade to Holland through the neighbouring ports of Tonningen, Ham-burgh, Bremen and Emden.

Now, as the injuring of the enemies of Great Britain is the only avowed object of her interdicting order against our trade, let a computation be made of the effect, which this difference between the order in council and the arrangement, could possibly have in producing such an injury. And then let the question be candidly answered whether, laying aside all considerations of right and justice, sufficient inducements could have been found in that result for rejecting the arrangement and for producing the consequent embarrassments as well to Great Britain as to the United States.

If it be necessary, as Mr. Jackson has stated, to set bounds to a spirit of encroachment and universal dominion, which would bend all things to its own standard, and to

falsify by honourable and manly resistance an annunciation that all Europe is submitting by degrees, the effort must be feeble indeed, which is to be found in the inconvenience accruing to the formidable foe from the operation of this order in council, and especially when we combine with it the strange phenomenon of substituting for the lawful trade of the United States a trade of British subjects, contrary to the laws of the adverse party, and amounting, without a special license, in the eye of British law to high treason.

Thus much for the orders in council. What has taken place with respect to the case of the Chesapeake will equally engage your attention.

You will perceive that throughout the early stages of the correspondence this case was in some respects improperly confounded with, in others improperly separated from, that of the orders in council; and particularly that pains had been taken by Mr. Jackson to substitute verbal and vague observations, on the disavowal of this part of the arrangement, for an explicit and formal explanation, such as was obviously due. It will be seen also that when finally brought to the point, he referred for a justification of the disavowal to the departure of Mr. Erskine from his instructions, without *showing* what those instructions were, and to allusions to an expression in the arrangement, without giving to his meaning the distinctness prerequisite to a just reply.

It appears, however, that he lays great stress on the proposal enclosed in his letter of the 27th of October, as at once indicating the departure of Mr. Erskine, from his instructions, and as containing the conditions on the basis of which he was ready to enter on an adjustment. And from a note from the secretary of the British legation, it appears that he has complained of not having received an answer to this proposal, as he had before complained that no answer had been given to his verbal disclosures on this head in his interviews with me.

With respect to his intimations in conversation, as they were preceded by no proper assignment of the reasons for not having executed the original adjustment, it cannot be necessary to remark that no such notice, as he wished to obtain, could with any sort of propriety have been taken of them.

With respect to his written project, it will suffice to remark ;

1st. That besides his reluctant and indistinct explanation of the disavowal of the original adjustment, he did not present his proposal until he had made such progress in his offensive insinuation as made it proper to wait the issue of the reply about to be given to it, and that this issue had necessarily put a stop to further communications.

2d. That although he had given us to understand that the ordinary credentials, such alone as he had delivered, could not bind his government in such a case, his proposal had neither been preceded by, nor accompanied with, the exhibition of other commission or full power. Nor indeed has he ever given sufficient reason to suppose that he had any such full power to exhibit in relation to this particular case.—It is true that in his letter of the 23d October, he has stated an authority *eventually* to conclude a convention between the two countries. Without adverting to the ambiguity of the term *eventually*, with the mark of emphasis attached to it, and to other uncertainties in the phraseology, it is clear that the authority referred to, whatever it may be, is derived from instructions *subject to his own discretion*, and not from a patent commission, such as might be properly called for. It is true also that in his letter of the 4th of November subsequent to his proposal, he says he was possessed of a full power, in due form, for the express purpose of concluding a treaty or convention. But it still remains uncertain, whether by the treaty or convention to which it related, was not meant an *eventual* or provisional treaty on the general relations between the two countries, without any reference to the case of the Chesapeake. Certain it is that the British government, in former like cases, as will be seen by the adjustment of that part of the affair at Nootka Sound which is analogous to this case, did not consider any such distinct full power as necessary ; nor is there the slightest ground for supposing that Mr. Erskine, although confessedly instructed to adjust this very case of the Chesapeake, was furnished with any authority distinct from his credential letter. That Mr. Jackson has any such commission is the less to be supposed, as it is but barely possible, that possessing it, he should not on some occasion, or in some form, have

used a language susceptible of no possible doubt on this point.

But, proceeding to the proposal itself, it is to be kept in mind that the conditions forming its basis, are the very conditions for the deviating from which Mr. Erskine's adjustment was disavowed. Mr. Jackson, if not on others, is on this point explicit.—“I now add,” says he, “that the deviation consisted in not recording in the official document signed here the abrogation of the President's proclamation of the 2d July, 1807, as well as the two reserves specified in the paper of memoranda enclosed in my official letter to you of the 27th ult.”

Considering then the conditions in the proposal as an ultimatum, in what light are we compelled to view such an attempt to repair the outrage committed on the frigate *Chesapeake*, and to heal the disappointment produced by a disavowal of a previous equitable reparation.

It is impossible on such an occasion not to recall the circumstances which constituted the character of the outrage, to which such an ultimatum is now applied. A national ship, proceeding on an important service, was watched by a superior naval force, enjoying at the time the hospitality of our ports, was followed, and scarcely out of our waters when she was, after an insulting summons, attacked in a hostile manner; the ship so injured as to require expensive repairs, the expedition frustrated, a number of the crew killed and wounded, several carried into captivity, and one of them put to death under a military sentence. The three seamen, though American citizens, and therefore on every supposition detained as wrongfully, as the ship would have been detained, have notwithstanding now remained in captivity between two and three years; and it may be added, after it has long ceased to be denied that they are American citizens.

Under these circumstances we are called upon to ransom the captives;

1st. By acknowledging that a precautionary proclamation, justified by events preceding the outrage, by the outrage itself, and by what immediately followed it, was unjustifiable, and that a repeal of it was properly a condition precedent to a reparation for the outrage. And this requisition is repeated too, after such an acknowledgment had been uniformly asserted by this government to

be utterly inadmissible, and what is particularly remarkable, at a time when the proclamation, as is well understood, was no longer in force. The occasion obviously invited a silent assumption of the existing fact, and this would have excluded the difficulty heretofore found to be insuperable.

2d. By throwing into complete oblivion the conduct of the officer answerable for the murderous transaction, with a knowledge too on our part, that instead of being punished or even brought to trial, he has been honoured by his government with a new and more important command.

3. By admitting a right on the part of Great Britain to claim a discharge from our service of deserters generally, and particularly of her natural born subjects, without excepting such as had been naturalized in due form under the laws of the United States.

It has not been explained, whether it was meant, as the universality of the term "deserters" would import, to include American citizens, who might have left the British service. But what possible consideration could have induced the British government to expect, that the United States could admit a principle that would deprive our naturalized citizens of the legal privileges, which they hold in common with their native fellow citizens. The British government, less than any other, ought to have made such a proposition, because it not only, like others, naturalizes aliens, but, in relation to the United States, has even refused to discharge from the British service native citizens of the United States, involuntarily detained. If an American seaman has resided in Great Britain, or has married therein, or has accepted a bounty in her naval service, his discharge therefrom, on the regular application to the British government, has been invariably refused by its board of admiralty. This I state on the authority of the official reports made to this department. It is therefore truly astonishing, that, with a knowledge of these facts, such a pretension should have been advanced at all, but above all, that it should have been made a *sine qua non*, to an act of plain justice already so long delayed. This is the more to be regretted as the omen does not favour the belief, we would willingly cherish, that no predetermination exists in the councils of his Britannick majesty irreconcilable to an amicable arrangement of an affair which, affecting so deeply the honour of the United States, must precede

a general regulation of the mutual interests of the two countries.

After the correspondence with Mr. Jackson was terminated, two notes, of which copies are herewith sent to you, were presented to me, in the name and by the hand of Mr. Oakley, the British secretary of legation.

The first requested a document, having the effect of a special passport or safeguard to Mr. Jackson and his family, during their stay in the United States. As the laws of this country allow an unobstructed passage through every part of it, and with the law of nations equally in force, protect publick ministers and their families in all their privileges, such an application was regarded as somewhat singular. There was no hesitation, however, in furnishing a certificate of his publick character, and to be used in any mode he might choose. But what surprised most was, the reasons assigned for the application. The insult he alluded to was then for the first time brought to the knowledge of this government. It had, indeed, been among the rumours of the day, that some unbecoming scene had taken place at Norfolk or Hampton, between some officers belonging to the *Africaine* and some of the inhabitants, and that it originated in the indiscretion of the former. No attention having been called for, and no inquiry made, the truth of the case is unknown. But it was never supposed that Mr. Jackson himself, who was on board the frigate, had been personally insulted; nor is it yet perceived in what way he considers it as having happened. It is needless to remark, that any representation on the subject would have instantly received every proper attention.

Another ground on which a protection was asked for, is the supposed tendency of the language of our newspapers to excite popular violence on Mr. Jackson's person. Had he been longer and better acquainted with the habits and spirit of the American people, he would probably never have entertained an apprehension of that sort. If he meant to animadvert on the free language of the newspapers, he might justly be reminded that our laws, as those of his own country, set bounds to that freedom; that the freedom of British prints, however great with respect to publick characters of the United States, has never been a topick of complaint, and that supposing the latitude of the American press to exceed that of Great Britain, the difference

is infinitely less in this respect between the two, than between the British press and that of the other nations of Europe.

The second note seems to be essentially intended as a justification of the conduct of Mr. Jackson, in that part of his correspondence which had given umbrage. If he intended it as a conciliatory advance, he ought not to have preceded it by a demand of passports, nor by the spirit or the manner in which that demand was made. He ought in fact, if such was his object, to have substituted an explanation in the place of his reply to my premonitory letter. But whether he had one or other, or both of these objects in view, it was necessary for him to have done more than is attempted in this paper.

It was never objected to him, that he had stated it as a fact, that the three propositions in question had been submitted to me by Mr. Erskine, nor that he stated it, as made known to him by the instructions of Mr. Canning; that the instruction to Mr. Erskine, containing those three conditions, was the only one from which his authority was derived to conclude an arrangement on the matter to which it related. The objection was, that a knowledge of this *restriction* of the authority of Mr. Erskine was imputed to this government, and the repetition of the imputation even after it had been peremptorily disclaimed. This was so gross an attack on the honour and veracity of this government as to forbid all further communications from him. Care was nevertheless taken, at the same time, to leave the door open for such as might be made through any other channel, however little the probability that any satisfactory communications would be received through any channel here.

To the other enclosures I add a printed copy of a paper purporting to be a circular letter from Mr. Jackson to the British consuls in the United States. The paper speaks for itself. As its contents entirely correspond with the paper last referred to, as they were unnecessary for the ostensible object of the letter, which was to make known Mr. Jackson's change of residence, and as the paper was at once put into publick circulation, it can only be regarded as a virtual address to the American people of a representation previously addressed to their government; a pre-

cedure which cannot fail to be seen in its true light by his sovereign.

The observations, to which so much extent has been given in this letter, with those contained in the correspondence with Mr. Jackson will make you fully acquainted with the conduct and the character he has developed; with the necessity of the step taken in refusing further communications with him, and with the grounds on which the President instructs you to request that he may be immediately recalled. You are particularly instructed, at the same time, in making those communications, to do it in a manner that will leave no doubt of the undiminished desire of the United States to unite in all the means the best calculated to establish the relations of the two countries on the solid foundation of justice, of friendship, and of mutual interest.

I have the honour to be, &c.

R. SMITH.

General Armstrong to Mr. Smith, Secretary of State. Paris, Sept. 4, 1809.

SIR,—The letter of which I send you a copy, was received during my absence, and detained in Paris till my return. The note promised in it has not yet been received. Mr. Warden informs me, that the council of prizes have been ordered to suspend their proceedings with regard to our vessels.

I have the honour to be, &c.

JOHN ARMSTRONG.

The Hon. Robert Smith,
Secretary of State.

TRANSLATION.

Count Champagny to General Armstrong. Vienna, August 8, 1809.

SIR,—You have desired that one of the American vessels, which are in the ports of France, might be authorized to depart for the United States with your despatches. I have taken the orders of his majesty on the subject of this

demand, and his majesty, always disposed to facilitate your communications with your government, has permitted the departure of the vessel which you shall designate. I informed the ministers of the marine and of the finances of this disposition, requesting them to ensure the execution of it so soon as you shall have made known to them the name of the vessel and the port from which she is to depart.

I have the honour, sir, to apprise you, that I shall forthwith address to you a note by order of his majesty, on the actual situation of our relations with the United States. Please to profit by the departure of the vessel to make this known to the federal government, and permit me also to send by that conveyance, some despatches to the minister plenipotentiary of his majesty to the United States.

Accept, sir, the assurances, &c. &c.

CHAMPAGNY.

Extracts of a Letter from Gen. Armstrong to Mr. Smith, Secretary of State. Paris, Sept. 16, 1809.

"I RECEIVED on the 3th instant, on my return from Holland, two notes from count Champagny, copies of which I have the honour to enclose. In one of these you will find an exposition of the principles which have governed, and which will continue to govern the conduct of his majesty with regard to neutral commerce. To this, which was offered as a definitive answer to our propositions, I have believed that any reply, before I had received the farther instructions of the President, would have been premature."

"Mr. Laurence arrived at L'Orient, on the 9th, and Mr. Hazewell at Paris, with your despatch of the 12th of August last, on the 13th instant. I immediately communicated to count Champagny the President's proclamation interdicting anew all commercial intercourse between the United States and Great Britain, and gave such other explanations as the case appeared to require."

TRANSLATION.

Extract of a Letter from Count Champagny to General Armstrong. Altenburg, August 22, 1809.

"I HAVE the honour to address to you the subjoined note, which his majesty has ordered me to send to you, and which I have announced in my last despatch. If France does not do at this time all that the United States of America can desire, your government will be able to see, that neither prejudice nor animosity influences its conduct; that it is the effect of its attachment to principles which the Americans, more than any other people, are interested in supporting, and of the necessity of reprisals which circumstances impose. The emperor will consider as a happy event, that which shall enable him to contribute to the prosperity of America, in leaving to its commerce all the liberty and all the extension which can render it flourishing."

TRANSLATION.

Official Note from Count Champagny to General Armstrong. Altenburg, Aug. 22, 1809.

SIR,—His majesty, the emperor, apprized that you are to send a vessel to America, has ordered me to make known to you the invariable principles which have regulated, and which will regulate his conduct on the great question of neutrals.

France admits the principle that the flag covers the merchandise.

A merchant vessel, sailing with all the necessary papers (*avec les expéditions*) from its government, is a floating colony. To do violence to such a vessel, by visits, by searches and by other acts of an arbitrary authority, is to violate the territory of a colony: this is to infringe on the independence of its government. The seas do not belong to any nation; they are the common property of mankind, and the domain of all.

Enemy merchant vessels belonging to individuals ought to be respected. Individuals who do not fight, ought not

to be made prisoners of war. In all her conquests, France has respected private property. The warehouses and the shops have remained with their proprietors. They have been free to dispose of their merchandise as they pleased, and at this moment a great number (convois) of wagons loaded principally with cotton, pass through the French armies, through Austria and Germany, on their way to such places as commerce has directed.

If France had adopted the usages of maritime war, all the merchandise of the continent of Europe would have been accumulated in France, and would have become a source of immense wealth. Such would have been, without doubt, the pretensions of the English, if they had had on the land that superiority which they have obtained at sea. We should have seen, as in the times of barbarism, the vanquished sold as slaves, and their lands parcelled out. Mercantile avidity would have usurped every thing; and the return to barbarous usages would have been the work of the government of a nation that has improved the arts and civilization. That government is not ignorant of the injustice of its maritime code. But what signifies to it, what is just? It only considers what is useful to itself.

Such are the principles of the emperor on the usages and the rights of maritime war. When France shall have acquired a marine proportioned to the extent of her coasts and her population, the emperor will put more and more in practice these maxims, and will use his endeavours to render the adoption of them general.

The right, or rather the pretension of blockading, by a proclamation, rivers and coasts, is as monstrous (revoltante) as it is absurd. A right cannot be derived from the will or the caprice of one of the interested parties, but ought to be derived from the nature of things themselves. A place is not truly blockaded until it is invested by land and by sea; it is blockaded to prevent it from receiving the succours which might retard its surrender. It is only then that the right of preventing neutral vessels from entering it exists: for the place so attached, is in danger of being taken, and the dominion of it is doubtful, and contested by the master of the town and him who blockades or beseiges it. Hence the right of preventing even neutrals from having access to it.

The sovereignty and the independence of the flag, are, like the sovereignty and the independence of the territory, the property of all neutrals. A state may give itself to another, may destroy the act of its independence, may change its sovereign; but the rights of sovereignty are indivisible and unalienable, none can give up any part of them.

England has placed France in a state of blockade. The emperor, by his decree of Berlin, has declared the Britannick isles in a state of blockade. The first measure kept neutral vessels at a distance from France, the second has interdicted to them England.

By her orders in council of the 11th November, 1807, England has laid a toll on neutral vessels, and has obliged them to pass through her ports before they should go to the places of their destination. By a decree of the 17th of December, of the same year, the emperor has declared vessels, whose flag shall have been violated, degraded, trodden under foot, as no longer belonging to their nation, (denationalize.)

To screen itself from the acts of violence, with which this state of things threatened its commerce, America laid an embargo in her ports; and although France, who had done nothing more than resort to reprisals, saw her interests and the interests of her colonies wounded by this measure, nevertheless the emperor applauded this generous determination of renouncing all commerce, rather than acknowledge the dominion (domination) of the tyrants of the seas. The embargo has been raised; a system of exclusion has been substituted for it. The continental powers leagued against England, make a common cause; they aim at the same object; they will reap the same advantages: they ought also to run the same risks. The ports of Holland, of the Elbe, of the Weser, of Italy and of Spain, will not enjoy (*ne jouiront*) any advantages of which those of France may be deprived. They will both, (*les uns et les autres*) be either open or shut at the same time, to the commerce of which they may be the object.

Thus, sir, France acknowledges in principle the liberty of the commerce of neutrals and the independence of maritime powers. She has respected them until the moment when the maritime tyranny of England (which respected

nothing) and the arbitrary acts of its government, have forced her to measures of reprisal, which she has adopted, but with reluctance.

Let England revoke her declarations of blockade against France ;—France will revoke her decree of blockade against England. Let England revoke her orders in council of the 11th November, 1807 ;—the decree of Milan will fall of itself. American commerce will then have regained all its liberty, and it will be sure of finding favour and protection in the ports of France. But it is for the United States by their firmness to bring on these happy results. Can a nation that wishes to remain free and sovereign, even balance between some temporary interests, and the great interests of its independence, and the maintenance of its honour, of its sovereignty, and of its dignity ?

Please to accept, sir, the assurances of my high consideration.

CHAMPAGNY.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO THE
HOUSE OF REPRESENTATIVES. DEC. 12, 1809.

ACCORDING to the request of the House of Representatives, expressed in their resolution of the 11th inst. I now lay before them a printed copy of a paper purporting to be a circular letter from Mr. Jackson to the British consuls in the United States, as received in a gazette at the department of state ; and also, a printed paper, received in a letter from our minister in London, purporting to be a copy of a despatch from Mr. Canning to Mr. Erskine of the twenty-third of January last.

JAMES MADISON.

CIRCULAR.

Washington, November 13, 1809.

SIR,—I have to inform you, with much regret, that the facts which it has been my duty to state in my official correspondence with Mr. Smith, have been deemed by the President of the United States to afford a sufficient motive for breaking off an important negotiation, and for putting an end to all communication whatever with me, as the minister charged with that negotiation, so interesting to both nations, and on one most material point of which an answer has not even been returned to an official and written overture.

One of the facts alluded to has been admitted by the Secretary of State himself, in his letter to me of the 19th October, viz. That the three conditions, forming the substance of Mr. Erskine's original instruction, were submitted to him by that gentleman. The other, viz. That that instruction is the only one in which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it related, is known to me by the instructions which I have myself received.

In stating these facts and in adhering to them, as my duty imperiously enjoined me to do, in order to repel the frequent charges of ill faith which have been made against his majesty's government, I could not imagine that offence would be taken at it by the American government, as most certainly none could be intended on my part; and this view of the subject has been made known to Mr. Smith. But as I am informed by him that no further communication will be received from me, I conceive that I have no alternative left which is consistent with the king's dignity, but to withdraw altogether from this city, and await elsewhere the arrival of his majesty's commands upon the unlooked for turn which has thus been given to his affairs in this country.

I mean in the interval to make New York the place of my residence, where you will henceforward please direct your communications to me, as I shall be accompanied by every member of his majesty's mission.

I am, &c.

F. J. JACKSON.

Copy of a Despatch from Mr. Secretary Canning to the Hon. D. M. Erskine. Foreign Office, January 23, 1809.

SIR,—If there really exist in those individuals who are to have a leading share in the new administration of the United States, that disposition to come to a complete and cordial understanding with Great Britain, of which you have received from them such positive assurances, in meeting that disposition, it would be useless and unprofitable to recur to a recapitulation of the causes from which the differences between the two governments have arisen, or of the arguments already so often repeated in support of that system of retaliation to which his majesty has unwillingly had recourse.

That system his majesty must unquestionably continue to maintain, unless the object of it can be otherwise accomplished.

But after the profession on the part of so many of the leading members of the government of the United States, of a sincere desire to contribute to that object in a manner which should render the continuance of the system adopted by the British government unnecessary, it is thought right that a fair opportunity should be afforded to the American government to explain its meaning, and to give proof of its sincerity.

The extension of the interdiction of the American harbours to the ships of war of France as well as of Great Britain, is, as stated in my former despatch, an acceptable symptom of a system of impartiality towards both belligerents; the first that has been publicly manifested by the American government.

The like extension of the non-importation act to other belligerents is equally proper in this view. These measures remove those preliminary objections, which must otherwise have precluded any useful or amicable discussion.

In this state of things, it is possible for Great Britain to entertain propositions, which while such manifest partiality was shown to her enemies, were not consistent either with her dignity or her interest.

From the report of your conversations with Mr. Madison, Mr. Gallatin and Mr. Smith, it appears :

1. That the American government is prepared, in the event of his majesty's consenting to withdraw the orders in council of January and November, 1807, to withdraw contemporaneously on its part the interdiction of its harbours to ships of war, and all non-intercourse and non-importation acts, so far as respects Great Britain; leaving them in force with respect to France, and the powers which adopt or act under her decrees.

2. (What is of the utmost importance, as precluding a new source of misunderstanding, which might arise after the adjustment of the other questions,) That America is willing to renounce, during the present war, the pretension of carrying on in time of war all trade with the enemy's colonies, from which she was excluded during peace.

3. Great Britain, for the purpose of securing the operation of the embargo, and of the *bona fide* intention of America to prevent her citizens from trading with France, and the powers adopting and acting under the French decrees, is to be considered as being at liberty to capture all such American vessels as may be found attempting to trade with the ports of any of these powers; without which security for the observance of the embargo, the raising of it nominally with respect to Great Britain alone, would, in fact, raise it with respect to all the world.

On these conditions his majesty would consent to withdraw the orders in council of January and November, 1807, so far as respects America.

As the first and second of these conditions are the suggestions of the persons in authority in America to you, and as Mr. Pinkney has recently (but for the first time) expressed to me his opinion, that there will be no indisposition on the part of his government, to the enforcement by the naval power of Great Britain of the regulations of America with respect to France, and the countries to which these regulations continue to apply, but that his government was itself aware, that without such enforcement those regulations must be altogether nugatory; I flatter myself that there will be no difficulty in obtaining a distinct and official recognition of these conditions from the American government.

For this purpose, you are at liberty to communicate this despatch *in extenso* to the American government.

Upon receiving through you, on the part of the American government, a distinct and official recognition of the three above mentioned conditions, his majesty will lose no time in sending to America a minister fully empowered to consign them to a formal and regular treaty.

As, however, it is possible that the delay which must intervene before the actual conclusion of a treaty may appear to the American government to deprive this arrangement of part of its benefits, I am to authorize you, if the American government should be desirous of acting upon the agreement, before it is reduced into a regular form, (either by the immediate repeal of the embargo, and the other acts in question, or by engaging to repeal them on a particular day) to assure the American government of his majesty's readiness to meet such a disposition in the manner best calculated to give it immediate effect.

Upon the receipt here of an official note, containing an engagement for the adoption by the American government of the three conditions above specified, his majesty will be prepared, on the faith of such engagement, either immediately (if the repeal shall have been immediate in America) or on any day specified by the American government for that repeal, reciprocally to recall the orders in council, without waiting for the conclusion of the treaty; and you are authorized, in the circumstances herein described, to make such reciprocal engagement on his majesty's behalf.

I am, &c.

GEORGE CANNING.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO THE
HOUSE OF REPRESENTATIVES. DEC. 16, 1809.

AGREEABLY to the request expressed in the resolution of the thirteenth instant, I lay before the House extracts from the correspondence of the minister plenipotentiary of the United States at London.

JAMES MADISON.

Brief Account of an unofficial Conversation between Mr. Canning and Mr. Pinkney, on the 18th of January, 1809, continued on the 22d of the same Month. [Transmitted by Mr. Pinkney to the Secretary of State.]

I DINED at Mr. Canning's with the *corps diplomatique* on the 18th January. Before dinner he came up to me, and entering into conversation, adverted to a report which he said had reached him that the American ministers (here and in France) were about to be recalled. I replied, that I was not aware that such a step had been resolved upon. He then took me aside, and observed that, according to his view of the late proceedings of Congress, the resolutions of the House of Representatives, in committee of the whole, appeared to be calculated, if passed into a law, to remove the impediments to arrangement with the United States, on the subjects of the orders in council and the Chesapeake, by taking away the discrimination between Great Britain and France in the exclusion of vessels of war from American ports. He added that it was another favourable circumstance that the non-importation system, which seemed to be in contemplation, was to be applied equally to both parties, instead of affecting as heretofore Great Britain alone.

I proposed to Mr. Canning, that I should call on him in the course of a day or two for the purpose of a free communication upon what he had suggested. To this he readily assented; and it was settled that I should see him on the Sunday following the (22d) at 12 o'clock, at his own house.

In the interview of the 22d, Mr. Canning's impressions appeared to be in all respects the same with those which he had mentioned on the 18th; and I said every thing which I thought consistent with candour and discretion to confirm him in his disposition to seek the re-establishment of good understanding with us, and especially to see in the expected act of Congress, (if it should pass) an opening for reconciliation.

It was of some importance to turn their attention here, without loss of time, to the manner of any proceeding that might be in their contemplation. It seemed that the resolutions of the House of Representatives, if enacted into a

law, might render it proper, if not indispensable, that the affair of the Chesapeake should be settled at the same time with the business of the orders and embargo, and this I understood to be Mr. Canning's opinion and wish. It followed that the whole matter ought to be settled at Washington, and, as this was moreover desirable on various other grounds, I suggested that it would be well (in case a special mission did not meet their approbation) that the necessary powers should be sent to Mr. Erskine.

In the course of the conversation, Mr. Canning proposed several questions relative to our late proposal: the principal were the two following.

1. In case they should wish either through me or through Mr. Erskine, to meet us upon the basis of our late overture, in what way was the effectual operation of our embargo as to France, &c. after it should be taken off as to Great Britain, to be secured? It was evident, he said, that if we should do no more than refuse clearances for the ports of France, &c. or prohibit under penalties voyages to such ports, the effect which my letter of the 23d of August, and my published instructions, proposed to have in view, would not be produced; for that vessels, although cleared for British ports, might, when once out, go to France instead of coming here; and this would in fact be so, (whatever the penalties which the American laws might denounce against offenders) could not, he imagined, be doubted; and he therefore presumed that the government of the United States would not, after it had itself declared a commerce with France, &c. illegal, and its citizens, who should engage in it, delinquents, and after having given to Great Britain by compact an interest in the strict observation of the prohibition, complain if the naval force of this country should assist in preventing such a commerce.

2. He asked whether there would be any objection to making the repeal of the British orders and the American embargo contemporaneous? He seemed to consider this as indispensable. Nothing could be less admissible, he said, than that Great Britain, after rescinding her orders, should for any time, however short, be left subject to the embargo in common with France, whose decrees were subsisting, with a view to an experiment upon France, or with any other view. The United States could not upon their own principles apply the embargo to this country one moment

after its orders were removed, or decline after that event to apply it exclusively to France, and the powers connected with her in system.

I took occasion towards the close of our conversation to mention the recent appointment of admiral Berkley to the Lisbon station. Mr. Canning said, that whatever might be their inclination to consult the feelings of the American government on that subject, it was impossible for the admiralty to resist the claim of that officer to be employed (no other objection existing against him) after such a lapse of time since his return from Halifax, without bringing him to a court martial. The usage of the navy was in this respect different from that of the army. But I understood Mr. Canning to say that he might still be brought to a court martial; although I did not understand him to say that this *would be* the case. He said that admiral Berkley, in what he had done, had acted wholly without authority. I did not propose to enter into any discussion upon the subject, and therefore contented myself with speaking of the appointment as unfortunate.

In both of these conversations, Mr. Canning's language and manner were in the highest degree conciliatory.

Extract of a Letter from William Pinkney, Esq. Minister Plenipotentiary of the United States in London, to the Secretary of State. London, May 28, 1809.

"In the interview which took place (on May 25) Mr. Canning said, that the British minister had acted in his late negotiation and engagements with you, not only without authority, but in direct opposition to the most precise instructions; that the instructions actually given to him had been founded on his own letters received here in January, in which were set forth the particulars of several conversations that had passed between him and Mr. Madison, Mr. Gallatin and yourself, but especially the two last; that it appeared from these conversations that, in the opinion of the persons with whom they were held, the government of the United States would be willing that Great Britain should consider the measures then contemplated by Congress, relative to non-intercourse, and the indiscriminate exclusion of belligerent vessels from our waters, as pre-

senting an opening for the renewal of amicable discussions with this country; that it would be disposed, in the case of the Chesapeake, to receive as sufficient reparation, in addition to the prompt disavowal and recall of admiral Berkely, the restoration of the seamen forcibly taken out of that vessel; that, on the subject of the orders in council, it would have no objection in case they were revoked as regarded the United States, to repeal the embargo and non-intercourse laws as to Great Britain, and to continue them as to France and Holland and such other countries as should have in force maritime edicts similar to those of France, so long as those edicts remained; that it would allow it to be understood that the British cruisers might capture American vessels attempting to violate the embargo and non-intercourse laws so modified; that it would even agree to abandon during the present war, all trade with enemies' colonies from which we were excluded in peace; that it was prepared to regulate by treaty, the commercial relations of the two countries, upon the basis of the most favoured nation, or upon that of reciprocal equality; and, in a word, that it was extremely desirous of re-establishing the most perfect good understanding and the most friendly connexion with Great Britain.

Mr. Canning proceeded to inform me that in consequence of these representations, some parts of which he said I had myself confirmed in two conversations in January, he had framed and transmitted to Mr. Erskine two sets of instructions, dated the 23d of that month, but not forwarded till some time afterwards, the first of which related to the business of the Chesapeake, and the second to the orders in council, and the proposed commercial arrangements. These instructions, together with the passages in Mr. Erskine's letter, written I believe in December last, which contained the above mentioned representations and some other details which I ought not to repeat, Mr. Canning read to me.

“Although Mr. Canning made me acquainted with Mr. Erskine's instructions, he did not in any degree apprise me of the explanations, transmitted by that minister, of the grounds and motives of his proceedings; and I could not be sure, from any thing which Mr. Canning had stated to me, that I had been made to understand the exact nature and character of the transaction. I believed, therefore,

that it behooved me to be particularly careful how I received what Mr. Canning thought fit to disclose to me. In looking back upon the past I discovered no inducements to a less cautious course. I remembered that Mr. Canning had not told me in our conversations in January (one of which occurred the day before the date of his letter to Mr. Erskine) that he intended to confide to him such powers as he must then have been in the act of preparing, or indeed any powers at all. That in our conferences in April, after the arrival of the *Pacifick*, the same reserve was practised. That in the last of those conferences Mr. Canning admitted only (and that too upon being pressed by me) that *in the business of the Chesapeake*, he "had written to Mr. Erskine, in compliance with what he understood to be my wish, that the settlement of that affair should be transferred to Washington," that even then the time when he had done so was not mentioned; and that as to the orders in council, I was suffered to suppose that negotiation in America had not been authorized. It occurred to me, moreover, that, as it had already been decided that Mr. Erskine was to be disavowed, and, as that decision had been made publick through the board of trade, I could not hope to prevent that disavowal, and that with my imperfect knowledge of facts, it might be worse than useless by laboured discussion to attempt it.

"With these impressions I could do little more than manifest my concern that conciliatory arrangements between the American Secretary of State and his majesty's accredited minister at Washington, acting in consequence and professing to act in pursuance of orders from his court, were not likely to have that effect which was naturally to be expected from them.

"I undertook, however, to declare with confidence that the American government had met Mr. Erskine's proposals in a just and friendly spirit, and with a sincere desire that, while its own honour and essential interests were fairly consulted and maintained, a liberal respect should be shown for those of Great Britain."

Extract of a Letter from Mr. Pinkney to the Secretary of State. London, June 6, 1809.

MR. CANNING tells me that the conversations detailed in Mr. Erskine's letters did not, as I had supposed, suggest that the government of the United States would allow it to be understood that British cruisers might stop American vessels attempting to violate the embargo and non-intercourse, continuing as to France, &c. after they should be withdrawn as to Great Britain. They suggested that the United States would *side with* the power revoking its edicts against the power persevering. This Mr. Canning says he considered (although he did not so insist upon it in the recapitulation contained in his instructions to Mr. Erskine,) as comprehending what I thought he had represented the actual suggestion to be, and what he supposed I had said to him in an informal conversation, at his house in Briton street, on the 22d of January, in an answer to one of his inquiries.

It will, I am sure, occur to you, as the fact is, that the little which I may have thrown out upon that occasion did not look to the admission of Mr. Canning's object into any stipulation between the two countries, and that I viewed it only as a consequence that might, and would, if France persisted in her unjust decrees, grow out of arrangements similar to those offered by us in August last.

Having no longer any authority (as Mr. Canning knew) to speak officially upon that or any other point connected with the orders in council, and being desirous that this government should propose negotiation at Washington, as well concerning the orders as the affair of the Chesapeake, I avoided as much as possible explanations upon details which would be best managed at home by the department of state, and endeavoured to speak upon what Mr. Canning proposed to me, in such a manner as that without justifying unsuitable expectations on his part, or forgetting what was due to the honour of my own government, I might contribute to produce an effort here towards friendly adjustment.

Extract of a Letter from Mr. Pinkney to Mr. Smith. London, June 9, 1809.

“MR. ERSKINE’S instructions concerning the orders in council having been laid before the house of commons, are now printed. You will find them in the newspaper enclosed.

“It is not improbable that when Mr. Canning read these instructions to me, I inferred from the manner in which the *three* points stated in the 5th, 6th and 7th paragraphs, are introduced and connected, that they were *all* considered as suggested by Mr. Erskine’s “report of his conversations with Mr. Madison, Mr. Gallatin, and Mr. Smith:” whether I was led by any other cause into the mistake of supposing that the *third* (as well as the first and second) was so suggested, I am not sure ; and it is not very material.

“Mr. Canning’s misconception of some informal observations from me in January last, has been in part mentioned in my letter of the 6th instant. But the published instructions show, what I had not collected from hearing them read, that he understood me to have stated “that the American government was itself aware that without an enforcement, by the naval power of Great Britain, of the regulations of America with respect to France, those regulations must be altogether nugatory.” It cannot be necessary to inform you that in this, as in the other particulars alluded to in my last letter, I have been misapprehended.

“I ought to mention that the strong and direct charge against the American government, of “manifest partiality” to France, introduced, without any qualification or management of expression, into a paper which Mr. Erskine was authorized to communicate *in extenso* to you, did not strike me when that paper was read to me by Mr. Canning.”

Extract of a Letter from Mr. Pinkney to the Secretary of State. June 23, 1809.

“ I HAD an interview yesterday with Mr. Canning.

“ In conversing upon the first of the conditions, upon the obtaining of which Mr. Erskine was to promise the repeal of the British orders in council, and a special mission, I collected from what was said by Mr. Canning, that the exemption of *Holland* from the effect of our embargo and non-intercourse would not have been much objected to by the British government, if the government of the United States had been willing to concede the first condition, subject to that exemption. Mr. Canning observed that the expedient of an actual blockade of *Holland* had occurred to them as being capable of meeting that exemption; but that Mr. Erskine had obtained no pledge, express or implied, or in any form, that we would enforce our non-intercourse system against *France* and her dependencies; that our actual system would, if not re-enacted or continued as to *France*, terminate with the present session of Congress; that for aught that appeared to the contrary in your correspondence with Mr. Erskine, or in the President's proclamation, the embargo and non-intercourse laws might be suffered without any breach of faith to expire, or might even be repealed immediately, notwithstanding the perseverance of *France* in her Berlin and other edicts; and that Mr. Erskine had in truth secured nothing more, as the consideration of the recall of the orders in council, than the renewal of American intercourse with Great Britain.

Upon the second of the conditions mentioned in Mr. Erskine's instructions I made several remarks. I stated that it had no necessary connexion with the principal subject; that it had lost its importance to Great Britain by the reduction of almost all the colonies of her enemies; that *Batavia* was understood not to be affected by it; that it could not apply to *Guadaloupe* (the only other unconquered colony) since it was admitted that we were not excluded from a trade with *Guadaloupe* in peace; that I did not know what the government of the United States would upon sufficient inducements, consent to do upon this point; but that it could scarcely be expected to give the implied sanction, which this condition called upon it to

give, to the rule of the war of 1756, without any equivalent or reciprocal stipulation whatsoever. Mr. Canning admitted that the second condition had no necessary connexion with the orders in council, and he intimated that they would have been content to leave the subject of it to future discussion and arrangement. He added that this condition was inserted in Mr. Erskine's instructions, because it had appeared from his own report of conversations with official persons at Washington, that there would be no difficulty in agreeing to it.

Upon the third condition I said a very few words. I restated what I had thrown out upon the matter of it in an informal conversation in January, and expressed my regret that it should have been misapprehended. Mr. Canning immediately said that he was himself of opinion that the idea upon which that condition turns could not well find its way into a stipulation; that he had nevertheless believed it proper to propose the condition to the United States; that he should have been satisfied with the rejection of it; and that the consequence would have been that they should have intercepted the commerce to which it referred, if any such commerce should be attempted."

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS.
JAN. 12, 1810.

I COMMUNICATE to the House of Representatives, the report of the Secretary of State on the subject of their resolution of the 6th of December last.

JAMES MADISON.

REPORT.

THE Secretary of State respectfully reports to the President of the United States, agreeably to a resolution of the House of Representatives of the 6th December, 1809, that the enclosed papers, from A to E, contain, in substance,

the information which has been received at this office, respecting seizures, captures and condemnations of ships and merchandise of the citizens of the United States, under the authority of the government of Denmark :

- A. A memorial of sundry Americans at Christiansand, to the President of the United States :
- B. Translation of an extract of a letter from Peter Isaacsen, lately appointed consul of the United States, at Christiansand, to the President of the United States, dated August 11, 1809 :
- C. List of American vessels, which have been carried into the ports of Denmark and Norway, received from Mr. Saabye, consul of the United States at Copenhagen :
- D. Extract from a letter of Mr. Saabye, to the Secretary of State, dated August 1, 1809 :
- E. Resolutions and memorial of merchants of Philadelphia.

The Secretary also respectfully reports to the President, that information had been received at this office, within the period embraced by the resolution referred to, of the capture of American vessels by those of Great Britain, under various pretexts, viz. for dealing by bills of exchange in an enemy's country for colonial produce, violating the British orders in council of January and November, 1807 ; for infringing the blockades of Martinique ; for being engaged in the Vera Cruz and colonial carrying trade, and of the seizure of some American vessels at Curracoa, at Ceylon, and in China, for reasons not distinctly stated. It is to be observed, however, that the papers in this office afford but a very imperfect account of the British captures of American property, and it is for this reason that a detail is not attempted in this report ; more particularly, as no official accounts have been received, on which to ground one.

The Secretary begs leave likewise to state to the President, that within the period embraced by the resolution, property to a considerable amount, belonging to citizens of the United States, has been captured and seized by the French, for violations of the Berlin and Milan decrees, and under other pretexts : that in some instances the merchant vessels of the United States have been burnt at sea by French cruisers, and in others, the indemnity of the vessels

and property has been purchased by the means of bills of exchange, drawn by the captains of the American vessels upon their owners, at a rate imposed by the captors. The accompanying statement of American vessels, condemned by the imperial council of prizes, at Paris, from the 18th December, 1806, to the 26th May, 1809, received from Mr. Warden, acting as consul of the United States, at Paris, more particularly explains the grounds of French captures.

It is to be observed, however, as to many of these acts, that they can no otherwise be considered as having been done under the authority of those governments, than that the vessels committing them were under their flags.

Respectfully submitted.

R. SMITH.

Department of State, Jan. 12, 1810.

(A.)

MEMORIAL

FROM SUNDRY AMERICANS AT CHRISTIANSAND, JULY 19,
1809.

*To his Excellency James Madison, Esq. President of the
United States of North America :*

THE memorial of the undersigned captains and super-cargoes, citizens of the United States, respectfully sheweth :

That in the prosecution of our several voyages, undertaken with the sanction of our government, and consequently, (as we are bound to believe) not only conformably to its laws, but also fair and legal, as they respect the treaties existing between the United States and the court of Denmark ; and although we had severally attached to our ships, all those official documents required by our laws, and were at the time of our sailing from the United States, issued by the several collectors, and other equally constituted authorities, for the purpose of proving the national character of our vessels and cargoes ; that nevertheless, we have been (whilst alike unsuspecting of insult or injury, and unprepared to resist either,) forcibly intercepted in the prosecution of our voyages, and by the privateers of Norway, acting under

commissions from his majesty the king of Denmark, and brought into the several ports of this kingdom, to the great injury of the citizens of the United States, whose property we represent, and in violation of those rights, due to neutrals in general ; but more especially to us, whose government uniformly has respected with the most sacred fidelity the rights of others.

Your memorialists beg leave to call your excellency's attention to the annexed list, by which you will observe, that

vessels, with cargoes to the amount of dollars, exclusive of freight and charges, have been detained here, some nearly three months, the others less, as will appear from said list ; and that several have been condemned under pretexts, the most degrading to our national flag and character, and apparently the most destitute either of reason or justice. As individuals, we have experienced a degree of incivility the more distressing, as we have seen the captain of a vessel bearing the English flag, an avowed enemy of the country, when captured and brought in here, meet with treatment in every respect different, and even respectful. In some cases where the most trifling inaccuracy could not be discovered in our ship's papers, we have found them when out of our possession, mutilated and defaced. In some instances, our people have been tempted with bribes, and threatened with punishments to induce their giving false testimony against our property. In those cases which have been adjudicated, all the proceedings are in the Danish language, (with which your memorialists are unacquainted) and we have been invariably refused, either a copy of those proceedings generally, or even of the particular charges against us, until what they call the trial, was over, and the judgment passed, by which the property of citizens of the United States was condemned. It is not the least of our present misfortunes, that in addition to the detention and condemnation of our property, our several crews are thrown upon us for support, without any other provision made for them by this government, than that of their entering into its service on board of their national gun-boats, or privateers, at the same time that our ship's provisions are in many cases almost, and in others altogether exhausted, and the impoverished state of the country, such, that a supply for

the approaching winter is at least precarious, if not absolutely unobtainable.

Your memorialists beg leave to lament, that in the kingdom of Norway, the United States have not either a consul or commercial agent, to whom, in circumstances so novel, unprecedented and distressing, we could apply, either for pecuniary aid, advice or protection, and that our distance from Copenhagen is so great, and the communication in consequence of the war with Sweden and England, so precarious and uncertain, that Mr. Saabye, our consul at that court, has it not in his power, even if he were disposed, to render us that aid which we require under those circumstances; and because Mr. Saabye, although well apprized of our situation, has not taken those steps which were certainly in his power to alleviate them. We have thought it our duty, and for our interest to solicit the friendship and protection of Peter Isaacksen, Esq. of this place, and to which he has generously acceded; in consequence of which, we have appointed him, by an instrument, (a copy of which is annexed) agent for the United States in this place, until your excellency's pleasure is known; and we cannot omit this opportunity of recommending this gentleman as possessing that honour, talent, integrity and independence, both of sentiment and fortune, which in a distinguished manner qualifies him for your excellency's appointment as consul for the United States, in the kingdom of Norway.

Your memorialists have further to represent, that the apparent breach of hospitality and faith, on the part of the court of Denmark, of which we now complain, is assigned by those constituted powers with whom they have had an opportunity of conversing, to circumstances which your memorialists are fearful are too true, namely, that many of our citizens have, especially during eighteen months last past, been engaged in a commerce, violating alike the laws of the United States, and those of the belligerents, and which has been carried on under false papers procured in England, and under the mask of the American flag. Of the truth of which allegation, your memorialists have to their sorrow, seen one proof in the case of the ship *Romulus*, of Boston, which was brought into this port, and very properly condemned in last May. It is further alleged, and we think it not improbable, that latterly the

English have built their ships as much as possible to resemble the Americans, and with them have been carrying on an extensive trade, especially to Archangel and the Baltick, under the American flag, and with American papers of English manufacture. How far these unwarrantable frauds may have been practised, and how they are in future to be prevented, will doubtless engross your excellency's attention, and the more especially, as this is made a ground of suspicion, operating against all American vessels, and on the strength of which, (we are led to believe) those condemnations which have taken place here, are almost exclusively founded.

Your memorialists further represent, that all the ports from Bayonne to the Weser, (as we understand,) are in a state of the most rigorous blockade, from which your memorialists infer, that as the activity of the privateers here, evidently increases with the growing extent of their depredations on our unprotected property, that a great proportion of those ships, which were bound for, but cannot enter the ports of Holland, while seeking for a place of security, and a market in Sweden and the Baltick, will add alarmingly to our unfortunate number, and increase the amount of property here, (already much too great, for the faint hopes your memorialists entertain of its recovery,) to a sum not merely affecting the interests of individuals, but such as will be alarmingly felt in the treasury of the United States.

Your memorialists would further represent, that in all the cases of condemnation which have taken place here, the captain representing the property has appealed to the high court of admiralty at Christiana, and as a strong demonstration of the expectation of the people of Norway, and the disposition of its government, in all those cases where the court have declared the property neutral, the voyage fair, and the capture of course illegal, and although the injured American has nevertheless been adjudged to pay the captor from four hundred to six hundred rix dollars, for proving his innocence and neutrality, yet the captors have also appealed to the same high court, without being compelled by law to give us bonds for the consequence of such further detention.

Your memorialists doubt not, nor can your excellency doubt, after an examination of the accompanied document,

that every American vessel in Norway, together with those who may be expected, will share in the same fate; but when the appeals will be ultimately tried, whether in one month, or in one year, or peradventure the next century, your memorialists have not with all their anxiety to ascertain a fact so much involving their interests, been able to learn.

Finally, your memorialists beg leave to assure your excellency, that unwilling to trouble or alarm our government, until every means in our power had been tried, which could tend to render this very unpleasant alternative unnecessary, we have applied repeatedly to our consul at Copenhagen, who answers that he feels for our situation, but could not render us any assistance; but observed that the higher courts of Norway would not fail to do us justice. To the laws of Norway we have appealed, but with the hopes already expressed in this memorial. Thus situated, we forbear to colour a simple representation, of itself so gloomy and degrading, that except in this single instance, will at all apply to the history of the civilized world, to the citizens of any free, brave, and powerful nation. Strangers therefore in a foreign country, dispossessed of our property, in the power of a people, who have arrested our vessels and cargoes, who (if they know) do not appear to respect those salutary laws recognised for ages, and necessary for the safe and honourable intercourse of mankind, with upwards of four hundred of our seamen, depending on us for protection and bread, without having the ability to extend to them the one, or procure for them the other. We supplicate most earnestly and respectfully your excellency's interposition, in such a manner as your wisdom shall approve; and we do this, with the fullest confidence that such measures as your excellency may adopt for the recovery of our property, the security of our rights, and the vindication of our national honour, will be as distinguished for their promptitude, firmness and decision, as the treatment of which we complain is remarkable for its novelty, severity and injustice.

We beg your excellency to accept the assurance of our respectful and high consideration.

Phinehas Drinkwater, George M'Lellan, William Leech, jun. John L. Lewis, Robert Thompson, William Foun-

tain, Henry Skinner, Thomas Harding, James Jacobs, John Campbell, Samuel C. Chamberlain, Ebenezer James, Ward Blackler, James N. Martin, Isaac Foster, Jacob Spafford, Reuben S. Randall, J. Mun, Jonathan Cook, John Becket, jun. Joseph Foster, jun. John How, per order, Robert Rogers, Wm. Adgate, M. Hutchinson, jun. Joseph Eck, Francis Joseph, Francis S. Coxe, Benjamin H. Kintzing, Samuel B. Ingersoll, Isaac Stone, Charles L. Smith, jun. Abijah Nerihey, jun. Miers Fisher, jun. George Davis, John Clemm, Jeremy Robinson, Royal Bond, Dedrick Heydorn, per order, George D. Thorn-dike, Wm. F. Graham, Nathaniel West, jun. Walter Wilson.

Christiansand, July 19, 1809.

(B.)

Translation of an Extract of a Letter from Peter Isaacsen to the President of the United States. August 11, 1809.

“ At a time at which nearly all the European powers are engaged in war, and not the colours of a single nation are respected; at which privateering, molestation and capturing have become as customary at they in times of peace were considered as against the laws of nations, and abhorred by all civilized states; at which commerce and navigation are every where interrupted, or rather to say, destroyed; at such a time it has happened, after the navigation of the United States of America was renewed, that several American merchant ships, bound from thence to the north of Europe, have been detained on their voyage by Norway privateers in the north seas, and carried into the ports of Norway, where at the present time are already the number of twenty-six of such vessels, partly here at Christiansand, and partly in the neighbouring harbour.

Under these circumstances, the captains of those vessels, as well as the supercargoes, have found it expedient to choose a general commissioner, who was able to direct their business here, give them advice and assistance during their stay here, and, in the whole, who was able to fulfil all the functions of a consul. I am unanimously elected

by them, being a merchant and Danish citizen at this place.

Persuaded of the most perfect neutrality of the United States of America with all the belligerent powers, and that its government always has kept a friendly connexion and understanding with my sovereign, the king of Denmark, and his dominions, and under the supposition, that American subjects neither can or will permit themselves any actions contrary to the positive laws, and which are not consistent with the most perfect neutrality. In consequence of this, I found myself in duty bound not to deny them that assistance, of which they stand so much in need, in a country where they were altogether strangers, and deprived of the disposal both of their vessels and cargoes.

These motives have determined myself, for the first, to annex the functions of a consul and commissioner, which has enabled me to my great satisfaction to find, that my expectations with regard to the lawful business of the American subjects, and the justice of their cases have not been entirely unfounded, and in behalf of this I do myself the honour to give the following submissive account.

Twenty-six vessels have been brought in here, of which eighteen have already undergone trial. Of these, eight have been cleared, and ten have been condemned as lawful prizes, for reasons that in the ship's papers have been found suspicious circumstances, viz.

The erasing or altering of the date in the sea letter, the want of the signature of the Secretary of State in the sea letter, and that they not altogether have been conformable with each other, &c. &c.

And further it has been observed, that among the several ships' documents has every where been wanting the charter party, which, according to the regulations for privateers, are ordered to be found on board of every neutral vessel, which want has occasioned, that the court of prizes has awarded the privateers to the expenses of the captures.

Those different sentences have produced the appeals to the high court of admiralty at Christiana, established there for the kingdom of Norway, either by the captains whose vessels have been condemned, or by the privateers against those vessels which have been liberated, which pro

cedures will occasion further delay, expenses and loss for the captured.

I hope that the most, if not all the cases appealed to the high court of admiralty, will be decided in favour of the American captains; in consequence of this I have proposed to the government, if the privateers who have appealed, being mostly but poor pilots and fishermen, ought not to be ordered to give security for the unnecessary delay and loss and damages derived from it, and which the American captains further might have to suffer, or if this security was not given, that it then might be permitted them immediately to proceed on their voyages—but I have received neither answer or resolution thereupon.

In the present situation of things exists consequently no remedy to lighten the burden of the captains, or procure clearances for their ships and cargoes, but to wait for the success of the expected resolution upon my proposal, or for the event of the sentence of the high court of admiralty in appealed cases—in the mean time I shall not fail to procure the cases of the captains pleaded, and in the whole observe their interest as well as possible.

Permit me further to make the following observations:—

In the same manner as the treacherous behaviour of England towards Denmark has occasioned the war between these two powers, in the same manner has our government considered privateering as one of the most useful means to hurt the enemy in his navigation and commerce. At the same time it gives a material interest to the privateers themselves, especially in a period at which our own navigation and commerce lay at rest, and the mariners have no other means of getting their living—consequently the privateers can in fact not be blamed to make use of their privileges and permission, by every opportunity, and I might dare to say, that the capturing of neutral vessels, according to political principles, might be excused, having had several instances, that vessels of such nations, which conforming to the famous Berlin decree, ought not to sail for England, or to be in any commercial connexion with it, nevertheless have by the help of fictitious and counterfeited papers, favoured the commerce of that country, especially since the commencement of war between Denmark and England, and thus have made themselves the enemies of Denmark, by car-

rying those articles to England, of which it stood in absolute want to keep up the war.

It is therefore nearly adopted as a common principle, not to respect the colours of any nation on the ocean, under the supposition, that as well the colours as the documents might be fictitious and false, and that the cargoes might be, direct or indirect, destined for the enemies of Denmark. This principle has been the more justified by having found at the examinations of several captured vessels, that they were not only provided with a double set of papers, but sailed besides under British licenses."

(C.) [Received in Mr. Staby's letter of October 16, 1809.]
AMERICAN SHIPS, which have been carried in by Privateers.

NAMES OF VESSELS.	MASTERS' NAMES.	TO WHAT PORT.	REMARKS.
Ship Rebecca, Commerce,	Captain Nimmo,	In Copenhagen,	Condemned in the prize court; appealed.
Haniel,	Otis,	ditto,	Condemned in prize court; has not appealed.
Hebe,	Weeks,	ditto,	Cleared in both courts.
Henry,	Ogle,	ditto,	Cleared in the prize court.
Two Friends,	Harris,	ditto,	ditto.
Spencer,	Livingston,	ditto,	Condemned and appealed.
Ann Louisa,	McCarthy,	ditto,	Cleared in the prize court.
Helvetius,	J. O. Roch,	ditto,	Condemned and appealed.
Aurora,	Barcet,	ditto,	Cleared in the prize court; appealed.
Hesper,	Masters,	ditto,	ditto.
Antelope,	Cushing,	ditto,	Cleared in the prize court.
Ann,	Hopkins,	ditto,	ditto.
James,	Donaldson,	ditto,	ditto.
Concordia,	Coffin,	ditto,	Condemned and appealed.
Alexander,	Johnson,	ditto,	Not decided.
Mary Ann,	Hodge,	In Aulburg and Fladstrand,	Cleared and appealed.
Washington,	Martin,	ditto,	ditto.
	Story,	ditto,	ditto.
	Swain,	ditto,	ditto.
David Gelston,	Wm. Booth,	ditto,	Condemned.
Mary,	M. Hale,	ditto,	Cleared and appealed.
Hetty,	John Shore,	ditto,	Cleared and sailed.
Sean,	Henly,	ditto,	Cleared, but appealed.
North America.	Drinkwater,	In Chistiansand, in Norway,	Cleared without being brought before court.
			Condemned, but appealed.

Jane,	McLellan,	In Christiansand, in Norway,	Condemned, but appealed.
Herschell,	Lewis,	ditto,	Cleared.
Suwarrow,	Leach,	ditto,	Condemned and appealed.
Raphael,	Joseph,	ditto,	Cleared.
Endeavour,	Lovett,	ditto,	ditto.
Pacific,	Becket,	ditto,	Condemned and appealed.
Doris,	Chamberlain,	ditto,	Cleared.
Industry,	Cook,	ditto,	Condemned and appealed.
Packett,	Petrick,	ditto,	Cleared.
Edward Henry,	Forster,	ditto,	Condemned and appealed.
Ann,	How,	ditto,	ditto.
Washington,	James,	ditto,	Cleared.
Good Friends,	Thompson,	ditto,	Condemned and appealed.
Atlantic,	Fountain,	ditto,	ditto.
Elizabeth,	Campbell,	ditto,	Cleared.
Commerce,	Hanner,	ditto,	Condemned and appealed.
United States,	Harding,	ditto,	Cleared.
Commerce,	Ingersoll,	ditto,	ditto.
Bellau,	Jacobs,	ditto,	Condemned and appealed.
Livia,	Martin,	ditto,	Cleared.
Chesapeake,	Mann,	ditto,	ditto.
Woolamot,	Blackler,	ditto,	Condemned and appealed.
Washington,	Randall,	ditto,	Cleared.
Byfield,	Forster,	ditto,	ditto.
James,	Shatford,	ditto,	Condemned and appealed.
Topaz,	Herrick,	ditto,	ditto.
America,	Stone,	ditto,	ditto.

(D.)

Extract from a Letter of Mr. Saabye to the Secretary of State. August 1, 1809.

"I AM fortunate enough to be able to inform you of a royal order given to day, by which all privateers are ordered back into port, and all privateering prohibited, except about Helegoland."

(E.)

Resolutions of several Merchants, &c. of Philadelphia. respecting Danish Captures.

Philadelphia, Oct. 19, 1809.

AT a Meeting of the Merchants and Underwriters of this city, interested in the vessels and property captured in Europe by Danish cruisers, held this day at the Merchants' Coffee House, the following Resolutions were unanimously agreed to:

Resolved, That a committee be appointed to prepare a representation to the President of the United States, of the facts and circumstances attending the late enormous and alarming depredations committed by Danish cruisers on the property of citizens of the United States, lawfully navigating the high seas, and actually destined for ports in Denmark, Sweden or Russia:

And of the vexatious proceedings and unjust condemnation of such property, in courts acting under the authority of Denmark; not only in violation of the law of nations, (in the maintenance and defence of which, that government has hitherto been distinguished,) but in contempt of those documents and evidences of neutrality, which have hitherto been deemed sufficient:

Respectfully requesting that such measures may be speedily adopted as the wisdom of the Executive may devise, and the magnitude and emergency of the case require.

Resolved, That the committee be instructed to collect all the testimony which the nature of the case may re-

quire, or the parties interested may furnish, together with satisfactory evidences of the neutrality of the property, and the other documents which accompanied it in each case, with the nature and amount of their several claims :

That memorial be signed by the parties interested, and together with a certified copy of the proceedings of this meeting (signed by the chairman,) be forwarded without delay to the Secretary of State, to be laid before the President :

That the chairman, T. Fitzsimons, W. Jones, Henry Pratt, Stephen Girard, Charles Pleasants, be a committee,
THOMAS FITZSIMONS, Chairman.

TO JAMES MADISON,

PRESIDENT OF THE UNITED STATES.

The Memorial of the Subscribers, Merchants and Underwriters of the City of Philadelphia, respectfully represents :

THAT during the present year, and since the expiration of the embargo laws, your memorialists have fitted out and loaded or insured several vessels, with valuable cargoes, destined for the ports or countries in amity with the United States, and not known to be under blockade of any restriction that would render the admission of American vessels hazardous ; that some of those vessels having departed from the United States previous to the proclamation which took off the restriction from the ports of the united kingdoms and their dependencies, took clearances *for a permitted port in Europe*, but were actually destined for a port in Russia, or some one in Denmark or Sweden.

That notwithstanding their being furnished with all the documents and evidences of the neutral character of both vessels and cargoes, in every instance in which they have been met with by Danish cruisers, they have been captured and sent into the ports under the dominion of that nation, and with their cargoes have been condemned, (with very few exceptions,) and even when acquitted, the sentences have been appealed from, so as to prevent a restitution of the property, and at the last advices the

whole was detained to abide the sentence of the superior tribunals. That from the destruction or dilapidations of the papers by the captors, as well as from other circumstances, your memorialists have too much reason to apprehend an unfavourable issue of the cases, and that if the property should be distributed, no subsequent determination would enable them to recover its value, the captors being (as they understand) generally without property or responsibility.

That besides the vessels and cargoes enumerated and specified, in the schedule transmitted by your memorialists to the department of state, there is certain information that a great number of vessels belonging to other ports of the United States, have been captured, and are under like circumstances with those of your memorialists, and likely to share the same fate.

Under these circumstances, and considering the magnitude of the object—Your memorialists presume to hope for the interference of government in their behalf, by despatching a publick vessel, and a person to represent the case to the Danish government, or such other measures as the wisdom of the President may deem proper, which with the proofs ready to be adduced by your memorialists, warrant the expectation that the property would be restored.

Pratt and Kentzing, Wm. Jones, Charles Pleasants, Godfrey Haga, John Evans, Edward Carrell, Murdoch and Duffield, James Tatem, Savage and Dugan, Charles Macalesters, William Bell, Howell and Pleasants, Wm. W. Smith, Simon Gratz and Co. John Claxton, James Smith and Co. James Oldden, jun. Thomas Fitzsimons, president of the Delaware insurance company, Samuel W. Fisher, president of the Philadelphia insurance company, David Lewis, president of the Phœnix insurance company, Philadelphia, John Inskeep, president of the insurance company, North America, James S. Cox, president of the insurance company of the state of Pennsylvania, George Latimer, president of the Union insurance company of Philadelphia, John Leamy, president of the Marine insurance company of Philadelphia. Samuel Yorke, Israel Pleasants, president of the United States insurance company. Stephen Girard, Joseph Carson, for Lancaster and Susq.

insurance company, James Paul, Wm. & Jona. Leedom, Eyre and Massey, James S. Ritchie, Samuel Israel, George Smith, Smith and Helmuth, John Bohley, Jacob Girard Koch, James Latimer, Daniel Man, Martin Dubs, Samuel Clarkson, J. Peterson, Thomas L. Moore, Samuel Keith, James C. Fisher, Gustavus and Hugh Colhoun, W. J. Miller, Thomas Ketland, Matthew H. Bevan, Daniel W. Coxe, Otto and Shawhidff, Andrew Bayard, John Coulter, Thomas Biddle and John Wharton, attorneys for James M'Murtrie, J. Bell, for himself, Wm. Bell, and Jos. Watson, Ebenezer Large and Son, Wilson Hunt, Samuel S. Veacock, Thomas Wotherspoon, Wm. M'Faden, John R. Shubert, James Barclay, Stephen Dutilh, Joseph Smith, Samuel Clarke, John Bernard, Montgomery and Newbold, James Finnisk, Thomas Clifford.

Statement of American Vessels condemned by the Imperial Council of Prizes at Paris, from the 18th of December, 1806, to the 26th of May, 1809.

Names of the Vessels and Captains.	Names of the ports to which they belong.	Names of the Proprietors, and their places of Residence.	Date of the decision.	Motive for condemnation.
1. The Ranger, captain Benjamin Hooper,	Boston,	Samuel Dulany, of Boston,	Sept. 18, 1806,	Vessel restored, the cargo confiscated, being English property.
2. The Fame, captain Zadock Crowell, seized at Bordeaux, by the custom house officers, the 8th of August, 1807,	New York.... This vessel wore the American flag, she was claimed by Mr. Constantine of Bordeaux,	Henry Turner, of New York,	Jan. 29,	This vessel carried Brandy from Charante to Bordeaux, after the decree of the 21st Nov. 1806.
3. The Victory, captain Caleb Hopkins, seized by the custom house officers, at Chebourg,	Portsmouth,	Edmund Roberts, of Portsmouth,	April 27,	Came from England, condemned for a false declaration.
4. The Aurora, captain Wm. Bowen, taken the 24th of January, 1808, by the corsair the Incomparable,	Baltimore,	Peter Lavery, and others,	June 8,	No certificate of origin; retaken from the English by the Incomparable.
5. The Rising Sun, captain Laborn Burt, taken the 7th of December, 1807, by the French corsair, the Jena, who conducted her to Amsterdam,	Plymouth,		June 8,	Conducted to Plymouth in England, by an English corsair, retaken by the Jena, confiscated, one twelfth to the profit of the state, the other to the owners of the corsair.
6. The America, captain John Proctor, taken the 5th of February, 1808, by the corsair, the Victoire,	Kennebunk,		June 8,	Conducted to Portsmouth in England, the 27th Dec. 1807. No certificate of origin.
7. The George, captain Bray, taken the 13th of January, 1808, by the Privateer, who carried her to Passat.	Newburyport,		June 8,	Visited the 23d Dec. 1807, by an English frigate.

Names of the Vessels and Captains.	Names of the ports to which they belonged.	Names on the Proprietors' and their places of Residence.	Date of the decision.	Motives for condemnation.
8. The stores, captain Charles Henry, taken the 4th of February, 1807, by the corsair the L'Actif,	New York.	Wm. Henry, of New York,	June 15, 1808,	Opposition to the decrees of the 21st Nov. 1806, and of Dec. 1807. Destination for London.
9. The Revenge, captain Ward Chipman, taken the 7th of Jan. 1808, by the corsair the Precursur,	Salem.	Wm. Gray, of Salem,	June 15,	No certificate of origin. Visited the 30th Dec. 1807, by an English frigate.
10. The Grace, capt. Lingen, taken the 27th of Jan. 1808, by the corsair, the Cosmopolis,	Boston.	Wm. Stackpole and Moses Wheeler, of Boston,	July 6,	Visited on the 29th Dec. 1807, her papers thrown overboard.
11. The Cadus, capt. Bunker, taken the 2d of Feb. 1808, by the gun boat Jaboué, who conducted her to Matseilles,	New York.	Joseph Searl, of New York,	July 6,	Visited by an English frigate before Toulon, the 16th Jan. 1808, and taken the 2d of Feb. following.
12. The Fame, capt. Nathaniel Smell,	Boston.	Oliver Keating, of Boston,	July 6,	Visited by an English frigate the 19th Jan. 1807, and taken the 29th Jan. by the Jaboué gun boat, who conducted her to Matseilles.
13. The Brothers, capt. Fisk, taken the 27th of Dec. 1807, by the Revenge, who conducted her to Cadix,	Bath.	Abner Dingney, of Dunburg, and Nath. Ames, of Winslow,	July 6,	Destination for London.
14. The George, capt. Jon. Eveleth, conducted to Conquet,	Newburyport.	John Woodwell and David Coffyn, of Newburyport,	July 6,	Visited the 25th Jan. 1808; taken by an English frigate the 31st of said month, and taken the 20th Feb. by the corsair the Speculation.
15. The Tarantula, captain John Riley, jun. taken the 2d of Feb. 1808, by the corsair, the Pen de Fornille, conducted to Boulogne,	Portsmouth.	Joseph Chase and Theodore Chase, of Portsmouth,	July 6,	Conducted to Gibraltar, the 20th Dec. 1807, by an English corsair, and left this port the 7th Jan. Visited the 12th of same month and also the 29th by an English frigate.

16. The James Adams, capt. Elijah Barry, taken 31st Dec 1803, by the corsair Sauvage, conducted to Dunirk,	This vessel had no register, she had a certificate dated at Philadelphia, the 5th of Nov. 1807, New York,	Messrs. Adams, Lough- ing and Cooper, of Philadelphia,	July, 13, 1808,	Visited the 24th Dec. 1807. Touched at England. No certificate of origin.
17. The Mercury, capt. Watson, taken the 28th Jan. 1808, by the corsair, the Rodeur, conducted to Dieppe,	Baltimore— Pretended to be American, claimed by Baren of Morlaix,	Charles Wingman,	July 13,	Visited the 8th Jan. 1808. No certificate of origin. Touched at England in May, 1807.
18. The Pauline, capt. John Clarke, taken the 7th Jan. 1808, by the corsair, the Requir,	Charleston— A provisional register dated the 4th of Feb. 1806, captain Wm. Malcolm,	Wm. Malcolm sold the said ship to capt. Fisher, before a notary at London, May 17, 1806, John Peters of Surry, county of Hancock,	July 23,	Opposition to the decree of the 21st Nov. 1806, and to that of 17th Dec. 1807; correspondence with England intercepted.
19. The Juno, capt. John Fisher, taken by the corsair, the Beum of Martinique,	Frenchman's Bay,	Wm. Dennech and Wm. Badger,	August 3,	English property; cargo of slaves.
20. The Charlotte, capt. Jonathan Lowden, taken the 28th of Jan 1808, by the corsair Revenge, conducted to Ostend,	Portsmouth, state of Massachusetts,	Edward Tilgham of Philadelphia,	August 18,	Left Plymouth the 23d Jan. 1808, destined for Gothenburg,
21. The Mary, capt. Samuel Rice, taken the 12th March, 1808, by the corsair L'Aigle, conducted to Malaga,	Philadelphia, without register, certificate from the custom house,	Wm. Dennech and Wm. Badger,	August 31,	Opposition to the decrees of the 21st Nov. 1806, and of the 23d Nov and 17th Dec. 1807, coming from England.
22. The Hope, capt. John Drady, taken the 18th of Jan. 1808, by the corsair La Mouche, conducted to La Spizzia,	Plymouth,	Robert Roberts, of Plymouth,	Sept. 7,	No certificate of origin.
23. The Mercury, capt. Bradfort, taken the 3d of Feb. 1808, by the corsair the Josephine, and conducted to Alicante,			Sept. 21,	On leaving Gibraltar visited by several English frigates.

Names of the Vessels and Captains.	Names of the ports to which they belonged.	Names of the Proprietors and their places of Residence.	Date of the decision.	Motive for condemnation.
24. The <i>Hibernia</i> , capt. Appleton, taken the 31st of Jan. 1808, by the corsair <i>Josephine</i> , conducted to Alicante,	Boston,	Capt. Thompson,	Sept. 21, 1808,	Visited the 24th Jan. 1808.
25. The <i>Steward</i> , capt. Thompson, conducted to Alicante,		George Rogers, Joseph Cutter, and John Wood, of Newburyport,	Dec. 2,	Infringement of the imperial decrees of blockade. Came in ballast from London.
26. The <i>May Flower</i> , capt. John Buntin, taken by the corsair <i>Prince Jerome</i> and conducted to Alicante,		Nicholas J. Ridgley, Alex. McDonnell, and Samuel Shelburne, of Baltimore,	Dec. 2,	Opposition to the imperial decrees of blockade.
27. The <i>Ranger</i> , capt. Chestum, taken by the <i>Prince Jerome</i> , and conducted to Alicante,		Capt. Bradiort, Chas. Bradfort, Robert and Jas. Hooe and John Muncaster, of Alexandria,	Dec. 2,	Came from England.
28. The <i>Anne</i> , capt. Charles Bradfort, conducted to Alicante, by the <i>Pr. Jerome</i> ,	Alexandria,		Dec. 15,	Opposition to the imperial decrees of blockade.
29. The <i>Edward</i> , capt. Samuel Lewis, seized at the Isle of Re,			Dec. 15,	Visited by English ships.
30. The <i>Two Marys</i> , capt. Riley, conducted to Belle Isle,			Nov.	Came from England.
31. The <i>Science</i> , capt. Howard,		R. Breed, of Boston, according to capt's declaration; register says Jos. Holmes of Kingston, Mass.	Nov. 2,	
32. The <i>Lanette</i> , capt. Coffyn, of Boston,		Daniel Guillaiver,	Jan. 25, 1809,	Sailed from Ireland when taken.
33. The <i>Susan</i> , capt. Thomas Delens,				

34. The Delight, capt. Tinkham,		Ebenezer Borthall,	Feb. 15, 1809,	She had not a pass-port in four languages. It was proven by papers on board that the cargo was destined for London.
35. The President, capt. Owings,		Wm. James Lynch,	Feb. 22,	She was destined for England. An English license found on board.
36. The Mary, capt. Lec,		William Allen,	March 1,	This vessel sailed from Malta for London, under convoy. English property.
37. The Holland Trader, capt. Sinclair,			March 1,	This vessel sailed from an English port.
38. The Amphion, capt. Josiah Wilson,			March 1,	This vessel sailed from an English port. British license; false declaration.
39. The Neptune, capt. Osgood,			March 1,	This vessel came directly from an English port.
40. The Betsey, capt. Bowyer,		I. Deland,	March 15,	This vessel sailed from an English port; had a license from the king of England.
41. The Hopewell, capt. Sheppard, conducted to Dieppe,	Salem,		March 29,	Opposition to the imperial decree of blockade. Property of English underwriters.
42. The William, capt. Tucker,			April 26,	This vessel came from England; confiscation and fine of 11,500 francs for false declaration.
43. The Juno, capt. William Edwards,	Norfolk,		April 26,	This vessel came from England. Confiscation and fine.
44. The New Guide, capt. Creagh,	New Orleans,		May 3,	Sailed from Alicante to London. English property; English supercargo.
45. The William, capt. Collin. This vessel's name was Augusta, neutralized under the name of William of Norfolk,			May 3,	Infringement of the imperial decrees of blockade.
46. The Warehouse, capt. Richard Chadwig,	New York,		May 3,	Condemned for having touched at Plymouth. Confiscation and fine 11,000 francs.
47. The Canton, capt. Henry Latham, conducted to Charente,			May 10,	False declaration, imprisonment, confiscation and fine of 9,000 francs, to be paid before the captain and crew are enlarged.
48. The Mirave, capt. David Jenkins,			May 26,	False declaration; fine of 11,000 francs.

THE *William*, captain Tucker, arrived at Charente, in ballast, the 22d of October, 1808, with twelve sailors, the number of the crew ; the captain and mariners being interrogated by the French authorities, at Charente, declared that they came from Bergen, in Norway, that the vessel had not touched at any port or place during her voyage, nor was she visited by any English war vessel.

The passport of the President of the United States was wanting ; the captain said that it was lost at the custom house of Saloo, in Spain. On two different places of the register the writing was found to be so effaced as to be illegible ; the captain being asked the reason of this, replied, that at the custom house of Saloo, it was written that the vessel was destined for Barcelona, and that as he refused to go to that port, the writing was effaced from the register.

The director general of customs took measures to ascertain whether certain documents were actually delivered at Bergen, as was attested by the captain and crew ; and transmitted them to the French consul, at Copenhagen, who submitted them to the inspection of the quarantine officers of that town, who declared that the bill of health was forged, as was evident from certain faults of orthography ; and that the other papers, said to be delivered there, were doubtless equally false, but that it belonged to the officers of the custom house to verify this opinion.

Captain Tucker was again interrogated, in January, and his answers were the same as before ; eight of his seamen had been discharged ; the three who remained persisted in the same declaration.

The ship was then put under seizure, and the captain committed to prison.

It was stated in the defence of the vessel, that the interest of the sailors necessarily led them to declare, that she came from England, if this had been the case ; seeing that this declaration would have entitled them to one third of the profits arising from the confiscation of the ship ; that the want of the passport is sufficiently supplied by other papers ; that the alleged typographical faults are contained in the printed form, which might not be of the same impression as the one sent as a model ; that of five papers,

only one was declared by the health officers to be forged; and how, it was asked, could this have been executed at England, seeing that the others were actually delivered by the custom house officers at Bergen.

The council having heard the report of the imperial attorney general, decided that the erasures were very suspicious; that the passport of the President of the United States was wanting; that the bill of health, said to be delivered at Denmark, is false, as well as other documents presented to them; that, consequently, the vessel did not come from Bergen, as was asserted by the captain and crew; and that, independently of confiscation, they have incurred the penalty imposed by the decree of the 23d of November, 1807, besides the prosecution to which the forged papers may give birth.

The captain is sentenced to pay the sum of 11,500 francs, for himself and 11 sailors, on account of their false declaration; and they are to remain in prison till this sum is paid; the false papers are to be sent to the minister of justice, to order such measures concerning them as he may think fit.

THE *Juno*, of Norfolk, captain William Edwards. This vessel arrived in 1808, at the isle of Ré; the captain declared upon examination, that he came from Bergen, with the intention of sailing for Charente; that during his voyage, he had not been visited by an English war vessel; nor had he touched at any port; that he had left Barcelona in August, 1809, with a cargo of wines, destined for Verrel; that he arrived *there* in October, where he unloaded, and then returned in ballast to Barcelona; that he left this port the 10th February, 1808, and took a cargo of wines from a port on the coast of Catalonia for Bergen; that he left Bergen the 18th June, and arrived the 22d at Charente; that during this and the last voyage he paid no contribution to the English government; that he had proposed to take in brandies at Charente, which he would probably have carried to Bergen.

This declaration was confirmed by all the crew, except one named *Stanfeldt*, who said that the *Juno* had been visited by an officer of an English brig, who conversed with his captain.

Among the ship's papers was found a copy of a license from the king of England, dated the 14th May, 1808; which was to be good for six months; the endorsement proved that it was for the use of the *Juno*, of Norfolk, coming from Charente, and going to London or Bristol.

Another of the sailors, William Summer, afterwards declared, that she came from Portsmouth and not from Bergen, and that the papers dated at Bergen were false. The court decided, "that this vessel comes under the decrees of the 23d November and 17th December, 1807. The sailor, who declared the truth, is excepted from the fine and penalty; he who acknowledged the visit, but not her real voyage, is to have no gratification. The vessel is confiscated to the profit of the state, and the captain condemned to pay 10,500 francs for himself and crew, on account of their false declaration, and to remain in prison, till this sum is paid. The false papers are to be sent to the minister of justice, to take such measures concerning them as he may think fit."

THE ship *New Guide*, of New Orleans, captain Creagh, had sailed to London, from Alicante, with a cargo of soda, wine, and raisins.

The captain being interrogated, declared, that he is a native of Baltimore, in the United States; that his vessel belongs to Mr. Shippend of New Orleans; that the cargo is the property of Compte and Co. of Barcelona, or of Joseph Bum, of London, to whom it was consigned; that he was destined to sail from New Orleans to Bordeaux, but being taken by the English, he was obliged to sell his cargo in England, where his vessel was finally acquitted; that he left Alicante the 24th of October, 1808, with a cargo, for London; that on the 19th of November, the ship being damaged, he was obliged to stop at Lisbon, where he unloaded almost the whole of the cargo, for the purpose of having her repaired; that the 29th of December he stopped at Falmouth, where he had no other expenses to pay than those incurred by the pilots; that his vessel being at quarantine, he could have sailed when he pleased; that he quitted this port the 2d of January, with a convoy, but formed no part of it; that after his departure from Falmouth, he had not been visited except by the corsair who took him.

Two officers, and two of the crew of the vessel, gave the same narrative of facts and circumstances.

The charges brought forward by the court, were as follows: The register of the ship, dated at New Orleans, the 20th January, 1808, proves that her captain was enjoined by the commanders of the English war vessels, the *Dryad* and the *Shannon*, on the 17th or 18th of March, 1808, to sail directly for England, and not to touch at a French port.

By an act, made at Barcelona in September, the captain declares, that he had been sent by the Spanish authorities to the French commandant, to obtain permission for the departure of his vessel, and that this could not be granted for less than \$25,000; and that the other vessels coming from Tangiers to Barcelona, since the period when the French occupied it, were, as he was informed, obliged to pay the same sum. In defence of the vessel and cargo, it was stated, that she was compelled to go to England; that it was impossible to prevent the visit of English war vessels; that the decree of the 17th of December could not possibly be known to him, the captain; that the French authorities knew well, that the destination for New Orleans was not the real one; that it could not be mentioned on the certificate, as the towns, that had submitted to French authority, were supposed to have no connexion with the rebels; that by the bill of lading and charter party, made at Tarragon, the 16th of September, 1808, the cargo is proven to be the property of Messrs. Compte and Co. merchants at Barcelona, who remained firmly attached to his majesty, king Joseph; that the soda, forming the chief part of the cargo, was originally destined for Marseilles, but could not be sent there, as the insurgents prevented all communications between these towns.

The conclusions of the imperial attorney general, were as follow: That it was proven from the ship's papers and other evidence, that she was bound from Alicante, a rebel port, to England, and that the cargo was consigned to Mr. Burns,* an Englishman—Besides, the infringement is manifest, of the imperial decrees of the 17th of December, and of the decree of blockade of the 21st November, 1806; that whatever be the attachment and fidelity of the house

* Mr. Burns is a partner of the house of Compte and Co. Barcelona.

of Messrs. Compte and Co. to their new sovereign, they cannot be freed from the confiscation incurred by the terms of the decrees, by a permission of the French generals, (of which no evidence exists,) nor by any thing less than a special authorization of the French government, which they do not pretend to have even solicited.

The council, of course, decides, that the prize of the New Guide and cargo is just, and are to be sold according to the prescribed forms, for the use of the owners of the privateer.

They invite the minister of marine, to seek information concerning the charts and instruments of navigation, which, the captain of the New Guide says were carried from his cabin, after he was put on board the privateer.

THE *William*, of Norfolk, formerly named the *Augusta*, was a French vessel, and by some means or other became neutralized; she was sequestered at Trequier; the captain declared upon examination, that he came from Bergen, where he had unloaded grain, which he brought from St. Maloes. The French consul at Bremen, certified that this vessel had not been at that port.

The vessel was confiscated. She was considered by the court as *French property*.

THE *Wareham*, captain Chadwig. This vessel arrived at Charente the 8th Oct. 1808; the captain declared that he came from Teneriffe, and that during his voyage he had touched at no port, nor had he been visited by an English vessel. This declaration was confirmed by the testimony of eight mariners.

Information was afterwards received from the isle of Ré, that she had unloaded at Plymouth; a certificate was received from the consul of the United States, and from the French maritime agent, at Bremen, that the ship did not leave this port at the period mentioned by the captain.

Two sailors of the *Amphion* declared, that they saw her in Plymouth in August or September, 1808, where she was undergoing certain repairs.

Independently of the confiscation of the vessel, the penalty incurred by false declaration is put in force; as the seamen, who gave this evidence, did not belong to the vessel, it belongs to the government to decide what recompense they merit.

The sum to be paid is 11,000 francs, for the captain and his crew, ten in number, who are to remain in prison till it is paid. The forged papers are to be sent to the minister of justice, who will employ such measures concerning them as he may think fit.

THE *Kitty*, captain Matthews, was acquitted, because there was no evidence that she had been in England, or visited by an English vessel; the captain declared that he came from the coast of Holland, from which he departed the 19th June, 1808; on leaving Rotterdam, she had two bottles of brandy on board; but the court decided that this did not constitute a cargo, and might have been consumed by the crew, as the captain asserts. The captain is obliged to pay all expenses relating to seizure. We know from the consignee, that this vessel came from England, and of course the declaration made by the captain, was false.

THE *Minerva*, captain Jenkins, was despatched from New York to Rotterdam, the 9th of October, 1807, where she arrived the 4th of January, 1808. The captain declared, that on the 21st June she proceeded from this port to Bergen, where she arrived the 3d of July; that on the 8th of same month, she left the latter place, in ballast, for Charente, where she arrived the 6th of August following; that on the 28th of the same month, she was freighted to a house at Charente, to take a cargo of brandies for Bremen, who put 450 pipes on board; that she had received her passport, and paid duties, amounting to 1,527 francs, when the officers of customs, suspecting the truth of the declaration of the crew, proceeded to a new examination; the answers were the same as before, and nevertheless the vessel was seized the 7th of January, 1809, and the captain and crew confined in prison, with the exception of two who had escaped. This measure was taken, in consequence of some marks of forgery, which the certificate of health and passport of quarantine presented.

The members of the court found the papers to differ from those which were issued from the same press, and this they considered as a proof that she did not come from Bergen, but from some prohibited port. The captain is sentenced to pay the sum of 11,000 francs, for himself and

ten mariners. The false papers are to be sent to the minister of justice.

THE *Canton*, captain Henry Latham, according to the captain's declaration, was at Amsterdam the 13th August, 1803; this fact was attested by his crew. The French consul, in Holland, certified that this vessel was not at Amsterdam at that period of time. The desertion of some of the crew, and the want of the usual passport of the king of Holland, were considered as proofs that the vessel had been at Britain; she was accordingly confiscated, and a fine of 9000 francs imposed, which must be paid before the captain and six men of the crew are enlarged.

This vessel had taken brandies aboard, which, by a decision of the court, are given up to the proprietors at Charente, on the supposition that the fraud was not known at the time they were shipped.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE
HOUSE OF REPRESENTATIVES. JAN. 12, 1810.

I COMMUNICATE to the House of Representatives the report of the Secretary of State on the subject of their resolution of the 3d instant.

JAMES MADISON.

REPORT.

THE Secretary of State has the honour to report to the President, in conformity to the resolution of the House of Representatives of the 3d instant, that no information has been received at the department of state relative to the blockade of the ports of the Baltick by France, and of the exclusion of neutral vessels by Russia, Sweden, and Denmark. As it is presumed, however, that the enclosed papers, the first a translation of an "Ukase" of the Rus-

sian government, dated on the 14th of May, 1809, and the second, a translation furnished to this department on the 10th of January last, by the charge des affaires of Denmark, of such parts of the instructions given to the privateers of that country on the 14th September, 1807, as were supposed to be most interesting to neutrals, may have some connexion with the object of the resolution, they are respectfully submitted.

R. SMITH.

Department of State, Jan. 11, 1810.

It is known to the whole world with what firmness Russia has long protected the neutral trade during the wars of the European powers. It is known with what courage she has defended the interests of the nations trading in peace from the flames of war. Following this invariable principle also, during the present rupture with England, she fully relied that illicit practices would not be admitted in the trade with nations in amity with us. But, as we have learned by experience, during the last year, that the enemy found means through the medium of neutral vessels of obtaining the produce he required, and of exchanging his own, to his aggrandizement, whereby we were lately necessitated to order two ships to be confiscated; for these causes, finding it indispensable to take measures for the prevention of various frauds and artifices, we command,

1st. That ships arriving in our ports shall prove the neutrality of the property, by the following documents, viz. *Of the ship*: by the pass, the ship's register, the muster-roll, and the log-book.—*Of the cargo*: by the charter party, the bills of lading, the declaration certificates of origin; if all the cargo or part thereof belongs to the captain; and by the invoices, if the ship comes from America or India, or if she be destined for those countries. If any of these documents cannot be produced by the captain, such ship shall be sent out of port, without being permitted to unload.

2d. Ships loaded in part with goods which shall be proved to be the produce or manufacture of an enemy's country shall be detained. The goods shall be confiscated and sold by publick sale, for the benefit of the crown. If more

than half the cargo consists of such goods, then not only the cargo, but the ship also shall be confiscated.

3d. A pass granted by a neutral, friendly, or allied power, shall not protect a captain if it be discovered that he has acted in opposition thereto; nor if the ship bear a name in the pass different from that designated in the other documents, unless proofs of the change of the name, certified by some established authority of the place from whence the ship comes, compose part of the documents of the said ship, and be presented to the custom house. In such case, the captain is not to be criminated for the difference in the name of the ship.

4th. The pass shall not be considered as valid should it be discovered that the ship receiving such pass was not, when the pass was given, in a port of the power giving the pass.

5th. If there be found on board of any ship a supercargo, a captain, or more than one third of the crew, subjects of an unfriendly power; or if the ship have not a muster-roll certified by the supreme authority of such neutral place as the ship comes from, such ship and cargo shall be confiscated, and the crew set at liberty.

6th. If it be discovered that the ship's pass presented by the captain, has been altered or forged, such ship and cargo shall be confiscated; the captain shall be prosecuted and proceeded with as directed by the laws regarding forgers of documents, and the crew set at liberty.

7th. If duplicate documents be discovered on board of a ship with different destinations, such ship and cargo shall be confiscated. If the captain endeavour to justify himself by asserting the total loss of his papers, and should not procure them, such ship and cargo shall be detained, and a reasonable time, considering the distance of the place, shall be granted for the producing of them, if the captain desires it: on the contrary, should the captain be unable to wait, the ship, with the cargo, shall be immediately sent out of port. But should the captain, on the expiration of the time granted him, not produce the papers, the ship and cargo shall be confiscated.

8th. No enemies' built ships shall be acknowledged as neutral or friendly, unless there be among the documents of such ship, an act certified by some publick court, proving

that the sale or transfer was made before the declaration of war. In any other case, the ship and cargo shall be confiscated.

9th. If the proprietor or master of the ship, being born subjects of an unfriendly power, should have a pass from a neutral or friendly power, such pass shall not protect them until they prove that they became subjects of and settled in the territories of a neutral or friendly power before the declaration of the war; otherwise they shall be sent away with their ships, without being permitted to take return cargoes.

COUNT ROMANZOFF.

St. Petersburg, May 14, 1809.

TRANSLATION.

Regulations for Vessels commissioned as Privateers, dated Rensburg, Sept. 14, 1807.

SECT. 1. Defines the qualifications for privateers.

2. Form of commission.

3. Regulates the security to be given by the owner.

4. It is the duty of every one thus lawfully commissioned, to take and bring in for adjudication, all ships and vessels belonging to the British crown or to British subjects, and he may also bring in for examination all such ships and vessels as may render themselves suspicious by a deviation from some of those in section 3, given definitions, and in whose papers he finds a founded suspicion that they do not belong to subjects of friendly or neutral powers; and he may further bring in for examination all such ships and vessels as at the commencement of hostilities were British property, notwithstanding they may have been, by later purchase or contract, made over to subjects of other nations, except by regular papers, passports and sea letters, it satisfactorily appears that they have been in some friendly or neutral port after they had ceased to be British property.

5. Orders respect to be paid to the territory of neutral or friendly powers, and such territory is considered to extend to one sea league from the land.

6. As we recognise it to be a fundamental principle, never to be departed from, that a free ship makes the goods on board free also, so do we strictly forbid our cruisers commissioned as privateers, to detain any vessel belonging to friendly or neutral powers, be the cargo whose it will, provided the ship's papers are in proper order, and no part of the cargo contraband of war, bound to a port or place under the British dominion.

7. As free ships makes free the goods on board, so does enemy's ships make the cargo hostile, unless it clearly appears that they are the property of neutrals loaded before the commencement of the war, or before the war was known at the place at which it was taken on board, and before the papers of the vessel were expedited.

8. The papers which according to the 6th article ought to be on board in due form, are (a,) a sea pass; (b,) the proof of the carpenter as to the building of the vessel; (c,) a register and certificate of measurement; (d,) a muster roll; (e,) a clearance; (f,) a charter party or bills of lading; (g,) and for such vessels as have passed the sound, a clearance from Elsinore: every ship or vessel which has so passed and is found without such clearance, will be condemned as lawful prize to the captor.—*Royal Plaiat dal. Copenhagen, 14th November, 1807.*

9. As good prize will be considered, all vessels which belong to the crown of Great Britain, or to British subjects in whatever part of the world they reside. Further, shall, after due investigation, according to the particular circumstances of the case, be condemned as good prize:

(a) All vessels which shall be found at sea without sea pass; or, (b,) when the pass or other documents are found to be false; (c,) when they are found in a course different from that expressed in their pass, unless forced thereto by storms, bad weather, pursuit of an enemy, or other accidents or distress, which must be proved by the journal; (d,) when loaded wholly or in part with contraband of war, which on investigation shall be destined to a British port; (e,) when a vessel is detained or about to be detained by a privateer offers resistance; (f,) such ships or vessels as shall approach a squadron blockading a Danish town, port or province, in order to trade with it or to carry it provisions.

10. Enumerates the articles which constitute contraband of war.

11. Directs the conduct to be observed at sea towards ships belonging to neutral or friendly powers ; the privateer, in case of suspicion only, to board such vessels.

12. The crews of privateers are forbidden to break open any drawer, trunk, or package, or any part of the cargo ; but in case of suspicion of contraband of war, they may require of the master of the neutral ship to open himself with the assistance of his own people, unless he should prefer to be carried into port for examination....prescribes penalty for acting contrary.

13. Conduct to be observed towards vessels detained until they reach port.

14. All prizes to be sent into Danish or Norwegian ports, under the penalty of forfeiture of the commission ; distress of weather, pursuit of an enemy, &c. excepted.

15. Regulates the examination and first proceedings in the case of a vessel carried in, and of the officer whose duty it is to attend thereto ; the act of examination duly attested, and a lawful inventory of the cargo and ship to be sent to the prize court.

16. Regulates the duty of the prize court, &c. in giving judgment, all circumstances are to be duly considered, but no other letter or papers to be produced as evidence against the vessel or cargo, except such as were actually found on board at the time of its detention.

17. Provides a prize court for every province in Denmark and Norway, and one for each of the duchies.

18. Respects appeals to the high court of admiralty.

19. When a privateer detains a vessel without any of those justifiable causes before mentioned, all reasonable expenses and damages arising therefrom, must be made good by such privateers ; but if the detained vessel shall not be furnished with regular papers, the capturing vessel shall be acquitted from all the consequences of such detention.

20. Provides for the sale at publick auction of all prizes condemned, deducting from the proceeds of the sale, one per cent. for the use of the marine hospital at Copenhagen : exempts from duty, tonnage, and all other charges, vessels and cargoes detained.

21. Directs the crews of vessels condemned as prize, if British subjects, to be sent to the nearest fortress, there to be considered as prisoners of war; and such as are subjects of friendly or neutral powers, to be delivered to the consuls of their respective nations.

22. Directs a copy of these regulations to be on board every privateer.

Given in our city and fortress of Rensburg, the 14th September, 1807.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE
HOUSE OF REPRESENTATIVES. FEB. 9, 1810.

I TRANSMIT to the House a report of the Secretary of State, complying with their resolution of the twenty-second of January.

JAMES MADISON.

REPORT.

THE Secretary of State, to whom the President has been pleased to refer the resolution of the House of Representatives, of the 22d of last month, has the honour to state, that it appears from the records in this department, that in the years 1801 and 1802, the Executive had endeavoured to obtain for the citizens of the United States, residing on the waters of Tombigbee and Alabama rivers, the free navigation of the Mobile river to its confluence with the ocean.—1st. by claiming this navigation as a natural right, sanctioned by the general principles of the law of nations, applicable to rivers similarly situated; and 2d, by endeavouring to purchase the country held by Spain on the Mobile.

These efforts were made before it was known that Spain had ceded Louisiana to France, and consequently before the purchase of that province by the United States. Since

that purchase, the country held by Spain on the Mobile has been claimed as being included therein.

The Spanish government having objected to this claim in a manner which justified a belief that the question would not be soon decided, our minister at Madrid was instructed again to claim the free navigation of the Mobile, under the general principles of the law of nations, and to represent to his catholic majesty the propriety and necessity of giving orders to his officers not to interrupt the free communication with our territories through the waters of the Mobile.

In addition to what has been done through this department, it appears that the governour of the Orleans territory and other officers of the United States have endeavoured to induce the Spanish authorities on the Mobile to abstain from exacting duties on the passage of our merchandise or produce up or down that river. Notwithstanding, however, every thing which has been done, it is understood that these authorities have continued to exact (with some occasional relaxations) a duty of twelve per cent. "on all articles of the growth or manufacture of the United States, which are conveyed through said river to and from the city of New Orleans."

All which is respectfully submitted.

R. SMITH.

Department of State, Feb. 8, 1810.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO THE
HOUSE OF REPRESENTATIVES. FEB. 17, 1810.

I TRANSMIT reports of the Secretaries of State and of the Treasury, complying with their resolution of the fifth instant.

JAMES MADISON.

REPORT

Of the Secretary of State. Department of State, February 14, 1810.

AGREEABLY to a resolution of the House of Representatives of the 5th instant, requesting the President of the United States to cause to be laid before that House copies of the several communications made to the governments of France and Great Britain, in pursuance of the authorities vested by Congress in the Executive, with respect to the several orders and decrees of either violating the lawful commerce and neutral rights of the United States, except such parts as may, in his judgment, require secrecy; and also to communicate to the same House such information as he may have received touching the forgery of papers purporting to be those of American vessels, the Secretary of State has the honour of laying before the President the following papers, viz.

1. Extract of a letter from Mr. Smith, Secretary of State, to general Armstrong, minister plenipotentiary of the United States, at Paris, dated March 15, 1809.

2. Copy of a note from general Armstrong to count Champagny, minister of exterior relations at Paris, dated April 29, 1809.

3. Extract of a letter from Mr. Smith to Mr. Pinkney, minister plenipotentiary of the United States at London, dated March 25, 1809.

4. Extracts of a letter from Mr. Pinkney to Mr. Smith, dated May 1, 1809.

A. Extracts of a letter from John M. Forbes, consul of the United States at Hamburgh, to Mr. Madison, Secretary of State, dated November 13, 1807.

B. Extracts of a letter from Mr. Lee, commercial agent of the United States at Bordeaux, to the same, dated Nov. 1, 1808.

C. Copy of a letter from Mr. Hackley, consul of the United States at St. Lucar, to Mr. Smith, dated Cadiz, March 23, 1809.

D. Sundry original documents belonging to, and concerning the ship *Aurora* of New York.

E. Extract of a letter from Mr. Harris, consul of the United States at St. Petersburg, to Mr. Smith, dated 13-25th October, 1809, covering certain papers belonging to the ship called the Georgia, of New York.

F. Extracts of a letter from John M. Forbes, dated November 7, 1809, to Mr. Smith, covering the forged sea letter of the ship Arno, of Boston, dated August 21, 1809, also a letter of the same date, signed Stephen Higginson and company, to captain William Kempton.

G. Extract of a letter from William Kirkpatrick, consul of the United States at Malaga, to Mr. Smith, dated Nov. 25, 1809.

It may be proper moreover to state, that various other communications have been received at this department from the agents of the United States in foreign countries, which mention that the practice prevails of forging American ships' papers and documents; but as they do not afford any details, they are not included in this report, which is respectfully submitted.

R. SMITH.

(1.)

Extract of a Letter from the Secretary of State, to General Armstrong, Minister Plenipotentiary of the United States at Paris. Department of State, March 15, 1809.

“THE proceedings of Congress at their late session, combined with the executive communications, affording, as they do, additional proofs of the pacifick disposition of this government, and of its strict observance of whatever the laws of neutrality require, you will not fail to avail yourself of the just arguments thence deducible in urging the equitable claims of the United States. The 1st, 2d, 3d, 4th, 11th, and 17th sections of the act interdicting our commercial intercourse with Great Britain and France, will, in that view, claim your attention, and especially the 11th section, authorizing the Executive to renew our commerce with the nation withdrawing the operation of its illegal edicts. And you will be careful to let it be understood that the authority thus vested, will, of course, be exercised in the event stated in the law.”

(2.)

General Armstrong to Count Champagny. Paris, April 29, 1809.

THE undersigned, minister plenipotentiary of the United States, has the honour of presenting to his excellency the minister of exterior relations, the enclosed copy of a law recently passed by the legislature of the Union.

This law, as may be seen by the several provisions of it, has been forced upon them by the extraordinary circumstances of the times, and is to be regarded as an act of precaution, taken with a view only of protecting their own property and rights, and of once more appealing to the interests and justice of those who would disturb or destroy them.

Your excellency may be assured, that as nothing has given more disquietude to the United States than the necessity which has impelled them to the adoption of this measure, so nothing will give them more satisfaction, than to see that necessity cease. It is in the spirit and sincerity of this declaration, that the undersigned is instructed to add, that any interpretation of the imperial decrees of the 21st of November, 1806, and 17th of December, 1807, which shall have the effect of leaving unimpaired the maritime rights of the Union, will be instantaneously followed by a revocation of the present act, and a re-establishment of the ordinary commercial intercourse between the two countries.

I offer to your excellency, &c.

JOHN ARMSTRONG.

His Excellency Count Champagny.

(3.)

Extract of a Letter from the Secretary of State to William Pinkney, Esq. Minister Plenipotentiary of the United States in London. Department of State, March 15, 1809.

“THE proceedings of Congress at their late session combined with the executive communications, affording as they do, additional proofs of the pacifick disposition of this government and of its strict observance of whatever the

laws of neutrality require, you will not fail to avail yourself of the just arguments thence deducible in urging the equitable claims of the United States. The 1st, 2d, 3d, 4th, 11th and 17th sections of the act interdicting our commercial intercourse with Great Britain and France, will, in that view, claim your attention, and especially the eleventh section, authorizing the Executive to renew our commerce with the nation withdrawing the operation of its illegal edicts. And you will be careful to let it be understood, that the authority thus vested, will of course be exercised in the event stated in the law."

(4.)

Extracts from a Letter of Mr. Pinkney, Minister Plenipotentiary of the United States, at London, to Mr. Smith, Secretary of State. London, May 1, 1809.

"UPON receipt of your letter of the 15th of March, it became my obvious duty to ask a conference with Mr. Canning. It took place accordingly on Monday the 17th of April."

"With a view to do justice to the character and tendency of the law of the first of March, I called the attention of Mr. Canning in a particular manner to the 11th section, which provides for the renewal of commercial intercourse with the power revoking or so modifying its edicts as that they should cease to violate the neutral commerce of the United States; and in obedience to my instructions I assured him that the authority vested in the President to proclaim such revocation or modification, would not fail to be exercised as the case occurred."

"I entered into a minute explanation of the law of the first of March, and in the course of it, availed myself of every inducement of interest which it could be supposed to furnish to this government to retract its orders in council, and of the proofs with which it abounds of the sincere desire of the American government to cultivate peace and friendship with Great Britain, even while it was repelling what it deemed encroachments and injuries, the most pernicious and alarming."

(A.)

Extracts from a Letter from John M. Forbes, Consul of the United States at Hamburgh, to Mr. Madison, Secretary of State. November 13, 1807.

“Two days ago the chief of the French douaniers, M. Eudel, having from the circulating rumours of the town reason to suspect that an American ship, the Lucy, captain Jesse Englee, entered as coming from Norfolk, had come from England, proceeded to examine the crew; notice of this was given to me by the captain, who had also consigned his ship and freight to me, the cargo being addressed to Messrs. Osgand and Co. of this city, but having always refused to acknowledge the authority of the French douaniers, I declined being present in any official character, and as the commercial correspondent of the captain sent my chief clerk on board to render such assistance as might be proper. The examination did not take place on board at the time appointed, but at a later hour at the house of M. Eudel. My clerk was not present, but I afterwards learned, that the mate and crew had all sworn that the ship came from London. As soon as I learned this I wrote the captain a letter, disclaiming all further individual agency in this business.”

“I examined more closely the papers of the ship Lucy, and convinced myself, by comparison of hands, that the signatures both of the President and your excellency to the sea letter, were both evidently forged.”

(B.)

Extracts of a Letter from Mr. Lee, Consul of the United States, at Bordeaux, to the Secretary of State. November 1, 1808.

“I HAVE been long in expectation that the President would have instructed the consuls to detain in their hands, the papers of all American vessels found in their district after the embargo, unless they were bound directly to the United States. A determination of this nature would have done but little or no injury to our merchants, and put a

stop to the practice of the English, who send shoals of American vessels from their ports, whose owners never saw America, and whose papers are manufactured in London.

“Ten vessels, suspected of having been expedited in this way from London, lately arrived in the river Charante, as coming from Norway, and were admitted by the custom house. I sent an agent over to Charante, to examine into the state of these vessels, whose report confirmed my suspicions. I immediately wrote general Armstrong on the subject, but fearing delays might be injurious, I sat out for la Rochelle, and on my arrival at Blaize, learnt that some of the crews of these vessels had betrayed their captains, and that the whole of them were seized by this government, and the crews imprisoned.”

“It is proper to state to you, sir, that our vessels’ papers, with all their private marks, are so completely copied in London, that it is almost impossible to detect them.”

(C.)

Copy of a Letter from Richard S. Hackley, Consul of the United States at St. Lucar. Cadiz, 23d of March, 1809, to the Secretary of State.

SIR,—Your department has no doubt been informed that the practice prevails in London of forging all kinds of papers that appertain to shipping of the United States, to which may be added passports from the department of state, certificates of naturalization, &c. &c. some of which are well executed, so much so, that the fraud very generally passes without being detected. By this means, a considerable trade has been carried on last year *under our flag* by British shipping, particularly to Russia and South America, and British subjects have passed wherever their business called them. Protected by these papers, our countrymen have but in two many instances found similar frauds answer their own purposes under the state of things as they now are, and have, for some time been in Europe.

The name of the person in London who is the great dealer in this species of speculation, is Van Saunders, and

with this note, I cover you a sample of his execution in a set of papers received from an American citizen here, from whom I demanded them upon being informed that he had them. To you the propriety will occur of taking some immediate step to correct this evil, which from its increasing practice, is becoming of serious importance in many points of view.

With much respect, &c.

RICHARD S. HACKLEY.

Papers enclosed in the first.

Note.—The original never received at the department of state.

(D.)

Statement of the Collector of Boston, respecting Ship Arno.

THE ship Arno, of Duxbury, burden 197 7-95, owned by Jacob Weston, of Duxbury, in the district of Plymouth, state of Massachusetts, and William Kempton, and John Perry, of Boston, state aforesaid, William Kempton, master, cleared from the district of Boston and Charlestown, on the 17th day of June, 1809, for Bremen, loaded with eight hundred and four barrels pearl ashes, weighing 3,350 cwt. and three hundred and forty-nine barrels of pot ashes, weighing 1,219 cwt. being the whole of her cargo. A bond was taken, that the said vessel should not proceed to a port in France or its dependencies, in the penalty of 30,000 dollars. A certificate has been returned of the landing of the cargo aforesaid, at London, signed by Samuel Williams, merchant, and William Lyman, consul at London. Her register was granted at Plymouth, on the 17th day of May, 1809, No. 27; and she had from this office a Mediterranean pass, dated 17th June, 1809, No. 87, and all other papers requisite.

The ship Arno is now in this port, and Kempton, her late master.

H. D.

(E.)

Extract from a Letter of Levett Harris, Consul of the United States, at St. Petersburg, to Mr. Smith. St. Petersburg, 13-25th Oct. 1809.

"I TRANSMIT you herewith, the papers of a vessel called the Georgia, of New York, arrived at Archangel, of New York, the register whereof, proving false, all the other papers I judge alike to be the same, and she has, therefore, been condemned by this government. Another vessel called the Intercourse has shared the same fate; but the ministry have not yet sent me the papers."

(F.)

Extracts of a Letter from John M. Forbes, Consul of the United States at Hamburg. Tonningen, November 7, 1809.

"I HAVE lately met with a circumstance which has embarrassed me much. The ship "Arno," captain Kempton, of Boston, known to have left that port on the 18th (7th) of June, with a cargo of pot and pearl ashes, lately arrived here with a cargo of gum." "I herewith enclose the sea letter which captain Kempton confessed to me he knew to have been forged, and which he said he had reason to believe was executed by one Van Sander, a Jew near White-hall, in London, who is known in the traffick of false American documents. I also enclose the original letter of instructions of Messrs. Stephen Higginson and company, owners of the cargo."

Boston, Aug. 21, 1809.

DEAR SIR,—You being master of the ship Arno, loaded by us, and now ready for sea, we have to request that you will proceed to the port of Tonningen as soon as possible, where you will inquire for the agents of Messrs. Parish and Co. of Hamburg, to whom your cargo is consigned.

You will of course receive instructions from those gentlemen how to proceed as to landing your cargo, &c. and you will please follow them. It is important to yourself as well as us, that you do nothing to violate the laws of any of the belligerents, in which case you will not be likely to meet with any interruption in your voyage.

Wishing you a pleasant passage and safe return, we are, sir, &c.

STEPHEN HIGGINSON & CO.

Captain William Kempton.

(G.)

Extract of a Letter from Mr. Kirkpatrick, Consul of the United States at Malaga, to Mr. Smith, Secretary of State. November 25, 1809.

“A FEW days ago the brig *Uforsight*, Christian Bodon, master, arrived here from Poole, with a cargo of bale goods and fish. Although her papers appear to be in perfect order, some doubts exist in my mind of their legality. I have consulted with some citizens of the United States actually here, and they agree with me in opinion, that the signatures of the President, yours, collector of New York, and of Joseph Nourse, are so well done that it is impossible to discover any difference. Under this impression I have determined to pass you a note of the ship's papers, that if they are really false, you may take such measures as you consider proper for having them seized on by the consuls in Europe where the vessel may be found.”

Note—The ship's papers alluded to are found to have been forged.

Report of the Secretary of the Treasury. Treasury Department, Feb. 16, 1810.

SIR,—I have the honour to enclose a statement transmitted by the collector of Boston, in relation to the ship *Arno*, which entered Tonningen with a forged sea letter.

Exclusively of the cases respecting forged marine papers which have from time to time been communicated by

the department of state, one only has come to the knowledge of the treasury, the particulars of which are explained by the enclosed letter from the collector of New York, and the papers accompanying the same.

I have the honour to be, &c.

ALBERT GALLATIN.

The President of the United States.

Extract of a Letter from the Collector of New York to the Secretary of the Treasury. Feb. 22, 1808.

"I HAVE just received copies of the clearances of the four following ships, with copies of certificates of origin, from Mr. Heineken, at Philadelphia, as clearing from this port to Amsterdam, the whole of which are most certainly forgeries.

Ann and Hope, 16th April last, with 411 hhds. sugar.

Juno,	do.	338 do.	do.
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Merchant,	23d,	435 do.	do.
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Jane,	16th,	506 do.	do.
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And 142 boxes oil.

"It does not appear that either of the three first mentioned ships were ever in this port.

"The Jane, Captain Gardiner, cleared the 21st March last for Liverpool, genuine copy of clearance enclosed;* copies of those sent me by Mr. Heineken relating to the Jane, are enclosed;† the others being of the same tenour, I do not send.

"As the Jane went out with the cargo, as mentioned, the sugars were undoubtedly taken in at Liverpool. Where the papers were forged is left to conjecture."

Philadelphia, Feb. 19, 1808.

SIR,—Having received, in my late communications from Holland, several clearances (to the amount of fourteen) concerning vessels detained there, under suspicions of being last from England, I hereby enclose a copy for your

* Marked A.

† Marked B.

investigation, and beg a candid answer, if those copies are true, and if the originals were issued at your office.

I have the honour to be, &c.

JAN. HEN. CH. HEINEKEN.

To David Gelston, Collector
of the port of New York.

American Consulate, St. Petersburg, July 17, 1809.

SIR,—The enclosed papers accompanied a ship which arrived here late last autumn, and wintered here, called the *Aurora*, of New York. This vessel was provided with a false register, the only marine paper whose genuineness we are able to ascertain, and upon which the government here condemned her for the benefit of the crown: from this fact it is indubitable that all the enclosed documents are forgeries.

I herewith transmit them to you, with a request that after the necessary examination shall have been made, you will be pleased to forward them to the department of state in America, the secretary whereof I have duly advised of the same.

I am very truly and respectfully, sir, &c.

LEVETT HARRIS.

S. Bourne, Esq. Consul General
of the United States, Amsterdam.

List of Papers belonging to a ship called the *Aurora*, of New York, transmitted to S. Bourne, Esq. at Amsterdam, for examination, with a request to send them after the same shall have been made, with a report thereof, to the Department of State.

No. 1. Role d'Equipage, certified in the name of George R. Curtis, agent of Silvanus Bourne, Rotterdam.

No. 2. Certificate for the landing of the cargo brought from New York, signed George R. Curtis, Rotterdam, 4th March, 1808.

No. 3. Certificate for the deposit of the ship's papers, signed George R. Curtis, 26th Sept. 1808.

No. 4. Bill of health, signed A. Reuter, secretary, dated Rotterdam, 26th Sept. 1808.

No. 5. An expedition in the Dutch language, for Riga, to said ship, dated 26th Sept. signed Gogel, and counter-signed 26th Sept. Rotterdam, Jan Schadee.

No. 6. A second expedition for do. do. in Dutch, dated Rotterdam, 26th Sept. 1808.

LEVETT HARRIS,
Consul Gen. of the U. S.

St. Petersburg, July 17, 1809.

Mr. Curtis to Mr. Bourne. Rotterdam, Aug. 25, 1809.

DEAR SIR,—I refer you to my report upon the papers of the Aurora, which are returned herewith, for all the answer I can give to your esteemed lines of yesterday's date, which however will no doubt prove satisfactory. It is not the first time I have seen these kind of documents; the French consul here laid before me a short while ago a similar set, but executed with much greater skill than these have any claim to. I was sorry I had not the good fortune to find you at home as I passed through Amsterdam the other day; it would have interested me to hear your opinion of American politicks at this juncture.

Yours with esteem,

GEORGE R. CURTIS.

S. Bourne, Esq. Amsterdam.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO THE
HOUSE OF REPRESENTATIVES. MARCH 27, 1810.

IN consequence of your resolution of the 26th instant, an inquiry has been made into the correspondence of our minister at the court of London with the department of state, from which it appears that no official communication has been received from him, since his receipt of the letter of November 23d last, from the Secretary of State. A letter

of January 4th, 1810, has been received from that minister by Mr. Smith ; but being stated to be private and unofficial, and involving moreover personal considerations of a delicate nature, a copy is considered as not within the purview of the call made by the House.

JAMES MADISON.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO THE
HOUSE OF REPRESENTATIVES. MAY 1, 1810.

I TRANSMIT to the House a report of the Secretary of State, complying with their resolution of the 30th of April.

JAMES MADISON.

REPORT.

IN pursuance of the resolution of the House of Representatives of yesterday, the Secretary of State has the honour of transmitting to the President of the United States, the accompanying papers marked A. B. C. D. E. and F.

No information has been received, that any communication has been made to our minister at London, on the part of the British government, "in answer to any note presented by him in pursuance of instructions given on the 23d November, 1809."

No answers have been given to the "propositions or overtures, made on the part of the United States to the governments of Great Britain and France, respecting any of the orders and decrees affecting neutral commerce," which have not been heretofore, or which are not herewith communicated.

All which is respectfully submitted.

R. SMITH.

Department of State, May 1, 1810.

LETTERS.

(A.)

Extract of a Letter from General Armstrong to M. Champagny. Paris, Sept. 8, 1809.

“ I HAD the honour of receiving your excellency's letter of the 22d of August last, in exposition of the principles adopted by his majesty with regard to neutral commerce. I shall hasten to transmit a copy of this note to my government.”

(B.)

The Secretary of State to General Armstrong. Department of State, Dec. 1, 1809.

SIR,—Enclosed you have five copies of the President's message and of its accompanying documents. They will afford you a view of the existing state of things here, and particularly of the ground taken in the correspondence with the British minister. You will perceive that the deliberations of Congress at their present session cannot but be embarrassed by the painful consideration, that the two principal belligerents have been, for some time, alike regardless of our neutral rights, and that they manifest no disposition to relinquish, in any degree, their unreasonable pretensions.

You will also herewith receive a copy of a letter to Mr. Pinkney, which will show the light in which M. Champagny's letter is viewed by the President, and at the same time the course of proceeding prescribed to our minister in London. You will of course understand it to be wished that you should ascertain the meaning of the French government, as to the condition on which it has been proposed to revoke the Berlin decree. On the principle which seems to be assumed by M. Champagny, nothing more ought to be required than a recall by Great Britain of her proclamation or illegal blockades, which are of a date prior to that of the Berlin decree, or a formal decla-

ration that they are not now in force. Should this be done and be followed by an annulment of all the decrees and orders in chronological order, and Great Britain should afterwards put in force old or proclaim new blockades, contrary to the law of nations, it would produce questions between her and the United States, which the French government is bound to leave to the United States, at least until it shall find it necessary to bring forward complaints of an acquiescence on our part, not consistent with the neutrality professed by us.

You will yourself, and, if necessary you will let the French government understand, that we do not consider ourselves bound to contest the legality of a blockade which may be conformable to the definitions heretofore maintained by the United States, and particularly to the definition contained in the treaty of June and October, 1801, between Great Britain and Russia. However founded the definition of M. Champagny may be in reason and general utility, and consequently however desirable to be made the established law on the subject of blockades, a different practice has too long prevailed among all nations, France as well as others, and is too strongly authenticated by the writers of admitted authority, to be combated by the United States.

If you should receive from the French government explanations proper to be communicated to Mr. Pinkney, you will not fail to transmit the same to him without delay. And should they be such as to make it important that Mr. Pinkney should immediately found thereon an application to the British government to prepare the way for a repeal of the Berlin decree, you will be pleased to hasten the communication to him by a special messenger. Whatever the explanations may be, you will of course transmit them to this department, with such other information as may be interesting.

With great respect, &c.

R. SMITH.

General John Armstrong, &c. &c. &c.

(C.)

*Mr. Smith to Mr. Pinkney. Department of State, Nov. 11,
1809.*

SIR,—From the enclosed copy of a letter from M. Champagny to general Armstrong, it appears that the French government has taken a ground in relation to the British violation of our neutral rights, not the same with that heretofore taken, and which it is proper you should be acquainted with. You will observe that the terms stating the condition on which the Berlin decree will be revoked are not free from obscurity. They admit the construction, however, that if Great Britain will annul her illegal blockades as distinct from her orders in council, such as the blockade from the Elbe to Brest, &c. prior to the Berlin decree, and perhaps of subsequent date, but still distinct from her orders in council, that France will put an end to her Berlin decree, or at least the illegal part of it. Whilst therefore it becomes important to take proper steps, as will be done, through general Armstrong, to ascertain the real and precise meaning of M. Champagny's letter, it is important also that your interposition should be used to ascertain the actual state of the British blockades, distinct from the orders in council, whether merely on paper or otherwise illegal, and whether prior or subsequent to the Berlin decree, and to feel the pulse of the British government on the propriety of putting them out of the way, in order to give force to our call on France to prepare the way for a repeal of the orders in council, by her repeal of that decree.

In the execution of this task, I rely on the judgment and delicacy by which I am persuaded you will be guided, and on your keeping in mind the desire of this government to entangle itself as little as possible in the question of priority in the violation of our neutral rights, and to commit itself as little as possible to either belligerent as to the course to be taken with the other.

If it should be found that no illegal blockades are now in force, and so declared by Great Britain, or that the British government is ready to revoke and withdraw all such as may not be consistent with the definition of block-

ade in the Russian treaty of June, 1801. it will be desirable that you lose no time in giving the information to general Armstrong, and whatever may be the result of your inquiries, that you hasten a communication of it to me.

Writing on short notice of the present conveyance, I have only to add the assurance of my esteem and great consideration, &c.

R. SMITH.

(D.)

Extract of a Letter from General Armstrong to the Secretary of State. Paris, January 28, 1810.

“IN conformity to the suggestions contained in your letter of the first of December, 1809, I inquired whether, if Great Britain revoked her blockades of a date anterior to the decree, commonly called the Berlin decree, his majesty the emperor would consent to revoke the said decree? To which the minister answered, that “the only condition required for the revocation, by his majesty, of the decree of Berlin, will be a previous revocation by the British government of her blockade of France, or part of France, [such as that from the Elbe to Brest, &c.] of a date anterior to that of the aforesaid decree; and that if the British government would then recall the orders in council which had occasioned the decree of Milan, that decree should also be annulled.”

(E.)

Extract of a Letter from Mr. Pinkney to the Secretary of State. London, February 28, 1810.

“I HAVE received from general Armstrong, a letter, of which a copy is enclosed; and have, in consequence, made a written inquiry of lord Wellesley (with whom I had before communicated personally on the subject,) as to the existence of the blockades to which it alludes. I am not without hopes that the reply to my inquiry will amount to a declaration (satisfying in substance the condition mentioned in general Armstrong’s letter) that these blockades are not in force: and if it should, I will send immediate notice to

general Armstrong. I have prepared an official letter to you on this head, which, with such additions as circumstances may enable me to make to it, will be sent by the corvette," [the John Adams.]

(F.)

*Copy of a Letter from General Armstrong to Mr. Pinkney.
Paris, January 25, 1810.*

SIR,—A letter from Mr. Secretary Smith, of the 1st of December last, made it my duty to inquire of his excellency the duke of Cadore, what were the conditions on which his majesty the emperor would annul his decree, commonly called the Berlin decree, and whether, if Great Britain revoked her blockades of a date anterior to that decree, his majesty would consent to revoke the said decree? To these questions I have this day received the following answer, which I hasten to convey to you by a special messenger.

Answer.

"THE only condition required for the revocation, by his majesty the emperor, of the decree of Berlin, will be the previous revocation by the British government of her blockades of France, or part of France [such as that from the Elbe to Brest, &c.] of a date anterior to that of the aforesaid decree."

I have the honour to be, &c.

JOHN ARMSTRONG.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO BOTH
HOUSES OF CONGRESS. DEC. 5, 1810.

Fellow Citizens of the Senate, and
of the House of Representatives,

THE embarrassments which have prevailed in our foreign relations, and so much employed the deliberations of Con

gress, make it a primary duty, in meeting you, to communicate whatever may have occurred, in that branch of our national affairs.

The act of the last session of Congress, "concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies," having invited, in a new form, a termination of their edicts against our neutral commerce, copies of the act were immediately forwarded to our ministers at London and Paris, with a view that its object might be within the early attention of the French and British governments.

By the communication received through our minister at Paris, it appeared, that a knowledge of the act by the French government, was followed by a declaration that the Berlin and Milan decrees were revoked, and would cease to have effect on the first day of November ensuing. These being the only known edicts of France, within the description of the act, and the revocation of them being such that they ceased, at that date, to violate our neutral commerce, the fact, as prescribed by law, was announced by a proclamation bearing date the second day of November.

It would have well accorded with the conciliatory views, indicated by this proceeding, on the part of France, to have extended them to all the grounds of just complaint, which now remain unadjusted with the United States. It was particularly anticipated that as a further evidence of just dispositions towards them, restoration would have been immediately made of the property of our citizens seized under a misapplication of the principle of reprisals, combined with a misconstruction of a law of the United States. This expectation has not been fulfilled.

From the British government no communication on the subject of the act has been received. To a communication from our minister at London of the revocation, by the French government, of its Berlin and Milan decrees, it was answered that the British system would be relinquished as soon as the repeal of the French decrees should have actually taken effect, and the commerce of neutral nations have been restored to the condition in which it stood, previously to the promulgation of those decrees. This pledge, although it does not necessarily import, does not exclude the intention of relinquishing, along with the orders in council, the practice of those novel blockades which have

a like effect of interrupting our neutral commerce. And this further justice to the United States is the rather to be looked for, inasmuch as the blockades in question, being not more contrary to the established law of nations, than inconsistent with the rules of blockade formally recognised by Great Britain herself, could have no alleged basis, other than the plea of retaliation, alleged as the basis of the orders in council. Under the modification of the original orders of November, 1807, into the orders of April, 1809, there is indeed scarcely a nominal distinction between the orders and the blockades. One of those illegitimate blockades, bearing date in May, 1806, having been expressly avowed to be still unrescinded, and to be, in effect, comprehended in the orders in council, was too distinctly brought within the purview of the act of Congress, not to be comprehended in the explanation of the requisites to a compliance with it. The British government was accordingly apprized by our minister near it, that such was the light in which the subject was to be regarded.

On the other important subjects depending between the United States and that government, no progress has been made, from which an early and satisfactory result can be relied on.

In this new posture of our relations with those powers, the consideration of Congress will be properly turned to a removal of doubts which may occur in the exposition, and of difficulties in the execution of the act above cited.

The commerce of the United States, with the north of Europe, heretofore much vexed by licentious cruisers, particularly under the Danish flag, has latterly been visited with fresh and extensive depredations. The measures pursued in behalf of our injured citizens not having obtained justice for them, a further and more formal interposition with the Danish government is contemplated. The principles which have been maintained by that government in relation to neutral commerce, and the friendly professions of his Danish majesty towards the United States, are valuable pledges in favour of a successful issue.

Among the events growing out of the state of the Spanish monarchy, our attention was imperiously attracted to the

change, developing itself in that portion of West Florida, which, though of right appertaining to the United States, had remained in the possession of Spain; awaiting the result of negotiations for its actual delivery to them. The Spanish authority was subverted; and a situation produced, exposing the country to ulterior events, which might essentially affect the rights and welfare of the Union. In such a conjuncture, I did not delay the interposition required for the occupancy of the territory west of the river Perdido; to which the title of the United States extends, and to which the laws, provided for the territory of Orleans, are applicable. With this view, the proclamation, of which a copy is laid before you, was confided to the governour of that territory, to be carried into effect. The legality and necessity of the course pursued, assure me of the favourable light in which it will present itself to the legislature; and of the promptitude, with which they will supply whatever provisions may be due to the essential rights and equitable interests of the people thus brought into the bosom of the American family.

Our amity with the powers of Barbary, with the exception of a recent occurrence at Tunis, of which an explanation is just received, appears to have been uninterrupted, and to have become more firmly established.

With the Indian tribes, also, the peace and friendship of the United States are found to be so eligible, that the general disposition to preserve both, continues to gain strength.

I feel particular satisfaction in remarking that an interior view of our country presents us with grateful proofs of its substantial and increasing prosperity. To a thriving agriculture, and the improvements related to it, is added a highly interesting extension of useful manufactures; the combined product of professional occupations, and of household industry. Such, indeed, is the experience of economy, as well as of policy, in these substitutes for supplies heretofore obtained by foreign commerce, that, in a national view, the change is justly regarded as of itself more than a recompense for those privations and losses resulting from foreign injustice, which furnished the general impulse required for its accomplishment. How far it may be expedient to guard the infancy of this improve-

ment in the distribution of labour, by regulations of the commercial tariff, is a subject which cannot fail to suggest itself to your patriotick reflections.

It will rest with the consideration of Congress, also, whether a provident, as well as fair encouragement, would not be given to our navigation, by such regulations as will place it on a level of competition with foreign vessels, particularly in transporting the important and bulky productions of our own soil. The failure of equality and reciprocity in the existing regulations on this subject operates, in our ports, as a premium to foreign competitors ; and the inconvenience must increase, as these may be multiplied, under more favourable circumstances, by the more than countervailing encouragements now given them, by the laws of their respective countries.

Whilst it is universally admitted that a well instructed people alone can be permanently a free people ; and whilst it is evident that the means of diffusing and improving useful knowledge form so small a proportion of the expenditures for national purposes, I cannot presume it to be unseasonable, to invite your attention to the advantages of superadding, to the means of education provided by the several states, a seminary of learning, instituted by the national legislature, within the limits of their exclusive jurisdiction ; the expense of which might be defrayed, or reimbursed, out of the vacant grounds which have accrued to the nation within those limits.

Such an institution, though local in its legal character, would be universal in its beneficial effects. By enlightening the opinions ; by expanding the patriotism ; and by assimilating the principles, the sentiments and the manners of those who might resort to this temple of science, to be re-distributed, in due time, through every part of the community ; sources of jealousy and prejudice would be diminished, the features of national character would be multiplied, and greater extent given to social harmony. But above all, a well constituted seminary, in the centre of the nation, is recommended by the consideration, that the additional instruction emanating from it would contribute not less to strengthen the foundations, than to adorn the structure, of our free and happy system of government.

Among the commercial abuses still committed under the American flag, and leaving in force my former reference to that subject, it appears that American citizens are instrumental in carrying on a traffick in enslaved Africans, equally in violation of the laws of humanity, and in defiance of those of their own country. The same just and benevolent motives which produced the interdiction in force against this criminal conduct, will doubtless be felt by Congress, in devising further means of suppressing the evil.

In the midst of uncertainties, necessarily connected with the great interests of the United States, prudence requires a continuance of our defensive and precautionary arrangements. The Secretary of War and the Secretary of the Navy will submit the statements and estimates which may aid Congress, in their ensuing provisions for the land and naval forces. The statements of the latter will include a view of the transfers of appropriations in the naval expenditures, and the grounds on which they were made.

The fortifications for the defence of our maritime frontier have been prosecuted according to the plan laid down in 1808. The works, with some exceptions, are completed, and furnished with ordnance. Those for the security of the city of New York, though far advanced towards completion, will require a further time and appropriation. This is the case with a few others, either not completed, or in need of repairs.

The improvements, in quality and quantity, made in the manufactory of cannon, and of small arms, both at the publick armories, and private factories, warrant additional confidence in the competency of these resources, for supplying the publick exigencies.

These preparations for arming the militia, having thus far provided for one of the objects contemplated by the power vested in Congress, with respect to that great bulwark of the publick safety, it is for their consideration, whether further provisions are not requisite, for the other contemplated objects of organization and discipline. To give to this great mass of physical and moral force, the efficiency which it merits and is capable of receiving, it is indispensable that they should be instructed and practised in the rules by which they are to be governed. Towards

an accomplishment of this important work, I recommend for the consideration of Congress the expediency of instituting a system, which shall, in the first instance, call into the field, at the publick expense, and for a given time, certain portions of the commissioned and non-commissioned officers. The instruction and discipline thus acquired, would gradually diffuse through the entire body of the militia that practical knowledge and promptitude for active service, which are the great ends to be pursued. Experience has left no doubt either of the necessity or of the efficacy of competent military skill, in those portions of an army, in fitting it for the final duties which it may have to perform.

The corps of engineers, with the military academy, are entitled to the early attention of Congress. The buildings at the seat, fixed by law, for the present academy, are so far in decay as not to afford the necessary accommodation. But a revision of the law is recommended, principally with a view to a more enlarged cultivation and diffusion of the advantages of such institutions, by providing professorships for all the necessary branches of military instruction, and by the establishment of an additional academy, at the seat of government, or elsewhere. The means by which war, as well for defence, as for offence, are now carried on, render these schools of the more scientifick operations an indispensable part of every adequate system. Even among nations whose large standing armies and frequent wars afford every other opportunity of instruction, these establishments are found to be indispensable, for the due attainment of the branches of military science, which require a regular course of study and experiment. In a government, happily without the other opportunities, seminaries, where the elementary principles of the art of war can be taught without actual war, and without the expense of extensive and standing armies, have the precious advantage of uniting an essential preparation against external danger, with a scrupulous regard to internal safety. In no other way, probably, can a provision, of equal efficacy for the publick defence, be made at so little expense, or more consistently with the publick liberty.

The receipts into the treasury during the year ending on the thirtieth of September last (and amounting to more than eight millions and a half of dollars) have exceeded

the current expenses of the government, including the interest on the publick debt. For the purpose of reimbursing at the end of the year three million seven hundred and fifty thousand dollars of the principal, a loan, as authorized by law, had been negotiated to that amount; but has since been reduced to two million seven hundred and fifty thousand dollars; the reduction being permitted by the state of the treasury, in which there will be a balance remaining at the end of the year, estimated at two millions of dollars. For the probable receipts of the next year, and other details, I refer to statements which will be transmitted from the treasury, and which will enable you to judge what further provisions may be necessary for the ensuing years.

Reserving for future occasions, in the course of the session, whatever other communications may claim your attention, I close the present, by expressing my reliance, under the blessing of Divine Providence, on the judgment and patriotism which will guide your measures, at a period particularly calling for united councils, and inflexible exertions, for the welfare of our country, and by assuring you of the fidelity and alacrity with which my co-operation will be afforded.

JAMES MADISON.

DOCUMENTS

ACCOMPANYING THE MESSAGE FROM THE PRESIDENT OF THE
UNITED STATES. DEC. 5, 1810.

*Extract of a Letter from Mr. Smith to Mr. Pinkney.
Department of State, Jan. 20, 1810.*

“In my letter to you of the 11th Nov. 1809, you were authorized to assure the British government, that the United States sincerely retained the desire which they have constantly professed to facilitate a friendly accommodation of all the existing differences between the two countries, and that nothing would be more agreeable to them than to find the successor of Mr. Jackson invested

with all the authorities necessary for the accomplishing of so desirable an event, and, moreover, that if the attainment of this object through your agency should be considered more expeditious, or otherwise preferable, it would be a course entirely satisfactory to the United States.

“I am now charged by the President to transmit to you the enclosed letter, authorizing you to resume the negotiations with the British government under the full power that had been given, severally, and jointly, to you and Mr. Monroe. And in your discussions therein, you will be regulated by the instructions, heretofore given to Mr. Monroe and yourself. It is, however, not intended, that you should commence this negotiation until the requisite satisfaction shall have been made in the affair of the Chesapeake. And in the adjustment of this case, you will be guided by the instructions which you have heretofore received from this department in relation to it.

“It is moreover desirable, that preparatory to a treaty upon all the points of difference between the two countries, an arrangement should be made for the revocation of the orders in council. As it is uncertain what may be the ultimate measures of Congress at the present session, it cannot be expected that the President can, at this time, state the precise condition to be annexed to a repeal of the orders in council: But, in general, you may assure the British government of his cordial disposition to exercise any power with which he may be invested, to put an end to acts of Congress, which would not be resorted to but for the orders in council, and at the same time, of his determination to keep them in force against France in case her decrees should not also be repealed.”

[Enclosed in the foregoing letter.]

Mr. Smith to Mr. Pinkney. Department of State, Jan. 20, 1810.

SIR,—The President, anxious to adjust the existing differences between the United States and Great Britain, and deeming it expedient to make another effort for that purpose, has given it in charge to me to instruct you to renew negotiations in London under the commission, dated 12th May, 1806, authorizing Mr. Monroe and yourself, severally, as well as jointly, “to treat with the British

government relative to wrongs committed between the parties on the high seas, or other waters, and for establishing the principles of navigation and commerce between them."

I have the honour to be, &c.

R. SMITH.

Mr. Smith to Mr. Pinkney. Department of State, May 22, 1810.

SIR,—Your despatch of the 27th of March, by the British packet, was received on the 17th of this month.

The President has read with surprise and regret the answer of lord Wellesley to your letter of the 2d January, and also his reply to your note requiring explanations with respect to the blockade of France. The one indicates an apparent indifference as to the character of the diplomatic intercourse between the two countries, and the other evinces an inflexible determination to persevere in their system of blockade.

The provision made for the diplomatic agency, which is to succeed that of Mr. Jackson, manifests a dissatisfaction at the step necessarily taken here with regard to that minister, and at the same time a diminution of the respect heretofore attached to the diplomatic relations between the two countries. However persevering the President may be in the conciliatory disposition which has constantly governed him, he cannot be inattentive to such an apparent departure from it on the other side, nor to the duty imposed on him by the rules of equality and reciprocity applicable in such cases. It will be very agreeable to him to find that the provision in question is intended merely to afford time for a satisfactory choice of a plenipotentiary successor to Mr. Jackson, and that the mode of carrying it into effect may be equally unexceptionable. But whilst, from the language of the marquis Wellesley, with respect to the designation of a charge d'affaires, and from the silence as to any other successor to the recalled minister, it is left to be inferred that the former alone is in contemplation, it becomes proper to ascertain what are the real views of the British government on the occasion ;

and should they be such as they are inferred to be, to meet them by a correspondent change in the diplomatic establishment of the United States at London. The President relies on your discretion for obtaining the requisite knowledge of this subject in a manner that will do justice to the friendly policy which the United States wish to be reciprocal in every instance between the two nations. But in the event of its appearing that the substitution of a charge d'affaires for a minister plenipotentiary, is to be of a continuance not required or explained by the occasion, and consequently justifying the inference drawn from the letter of lord Wellesley, the respect which the United States owe to themselves will require that you return to the United States, according to the permission hereby given by the President, leaving charged with the business of the legation such person as you may deem most fit for the trust. With this view a commission, as required by a statute of the last session, is herewith enclosed, with a blank for a secretary of legation. But this step you will not consider yourself as instructed to take in case you should have commenced, with a prospect of a satisfactory result, the negotiation authorized by my letter of the twentieth January.

In a letter of the 4th of this month, I transmitted to you a copy of the act of Congress, at their last session, concerning the commercial intercourse between the United States and Great Britain and France. You will herewith receive another copy of the same act. In the fourth section of this statute you will perceive a new modification of the policy of the United States, and you will let it be understood by the British government that this provision will be duly carried into effect on the part of the United States.

A satisfactory adjustment of the affair of the Chesapeake is very desirable. The views of the President upon this delicate subject you may collect not only from the instructions heretofore given to you, but from the sentiments that had been manifested on the part of this government in the discussion with Mr. Rose, and from the terms and conditions contained in the arrangement made with Mr. Erskine. And conformably with these views, thus to be collected, you will consider yourself hereby instructed

to negotiate and conclude an arrangement with the British government in relation to the attack on the frigate Chesapeake.

I have the honour to be, &c.

R. SMITH.

Wm. Pinkney, Esq. &c. &c. &c. London.

Mr. Smith to Mr. Pinkney. Department of State, July 2, 1810.

SIR,—Your several letters of the 3th and 9th of April, and 2d and 3d of May, have been received.

Whilst it was not known, on the one hand, how far the French government would adhere to the apparent import of the condition, as first communicated, on which the Berlin decree would be revoked, and, on the other hand, what explanations would be given by the British government with respect to its blockades prior to that decree, the course deemed proper to be taken was that pointed out in my letter to you of the 11th of November, and in that to general Armstrong of the 1st of December. The precise and formal declaration since made by the French government, that the condition was limited to the blockades of France, or parts of France, of a date prior to the date of the Berlin decree, and the acknowledgment by the British government of the existence of such blockades, particularly that of May, 1806, with a failure to revoke it, or even to admit the constructive extinguishment of it, held out in your letter to the marquis Wellesley, give to the subject a new aspect and a decided character.

As the British government had constantly alleged that the Berlin decree was the original aggression on our neutral commerce, that her orders in council were but a retaliation on that decree, and had, moreover, on that ground, asserted an obligation on the United States to take effectual measures against the decree, as a preliminary to a repeal of the orders, nothing could be more reasonable than to expect, that the condition, in the shape last presented, would be readily accepted. The President is, therefore, equally disappointed and dissatisfied at the abortiveness of your correspondence with lord Wellesley on this important subject. He entirely approves the

determination you took to resume it, with a view to the special and immediate obligation lying on the British government to cancel the illegal blockades; and you are instructed, in case the answer to your letter of the 30th of April should not be satisfactory, to represent to the British government, in terms temperate but explicit, that the United States consider themselves authorized by strict and unquestionable right, as well as supported by the principles heretofore applied by Great Britain to the case, in claiming and expecting a revocation of the illegal blockades of France, of a date prior to that of the Berlin decree, as preparatory to a further demand of the revocation of that decree.

It ought not to be presumed that the British government, in reply to such a representation, will contend that a blockade, like that of May, 1806, from the Elbe to Brest, a coast of not less than one thousand miles, proclaimed four years since, without having been at any time attempted to be duly executed by the application of a naval force, is a blockade conformable to the law of nations and consistent with neutral rights. Such a pretext is completely barred not only by the unanimous authorities both of writers and of treaties on this point, not excepting even British treaties, but by the rule of blockade, communicated by that government to this in the year 1804, in which it is laid down that orders had been given not to consider any blockade of those islands (Martinique and Guadaloupe) as existing, unless in respect of particular ports which may be actually invested; and then not to capture vessels bound to such ports unless they shall previously have been warned not to enter them, and that they (the lords of the admiralty) had also sent the necessary directions on the subject to the judges of the vice admiralty courts in the West Indies and America. In this communication it is expressly stated, that the rule of the British courts and cruisers was furnished in consequence of the representations made by the government of the United States against blockades not unlike that now in question, and with the express view of redressing the grievance complained of. Nor ought it to be presumed that the British government will formally resort to the plea that her naval force, although unapplied, is adequate to the enforcement of the blockade of May, 1806, and that this forms a legal distinction between that

and the Berlin decree of November following. Were it admitted that an adequate force existed, and was applicable to such a purpose, the absurdity of confounding the power to do a thing with the actually doing of it speaks for itself. In the present case the absurdity is peculiarly striking. A port blockaded by sea without a ship near it, being a contradiction in terms as well as a perversion of law and of common sense.

From the language of lord Wellesley's two letters, it is possible he may endeavour to evade the measure required, by subtle comments on the posture given to the blockade of May, 1806, by the succeeding orders of 1807. But even here he is met by the case of the blockade of Copenhagen and the other ports of Zealand in the year 1808—at a time when these, with all Danish ports, were embraced by those very orders of 1807—a proof that however the orders and blockades may be regarded as in some respects the same, they are regarded in others as having a distinct operation, and may consequently co-exist, without being absolutely merged in, or superseded, the one by the other.

In the difficulty which the British government must feel in finding a gloss for the extravagant principle of her paper blockades, it may perhaps wish to infer an acquiescence on the part of this government, from the silence under which they have, in some instances, passed. Should a disposition to draw such an inference show itself, you will be able to meet it by an appeal not only to the successful remonstrance in the letter to Mr. Thornton, above cited, but to the answer given to Mr. Merry, of June, 1806, to the notification of a blockade in the year 1806, as a precise and authentick record of the light in which such blockades, and the notification of them, were viewed by the United States. Copies of the answer have been heretofore forwarded, and another is now enclosed, as an additional precaution against miscarriage.

Whatever may be the answer to the representation and requisition which you are instructed to make, you will transmit it without delay to this department. Should it be of a satisfactory nature, you will hasten to forward it also to the diplomatic functionary of the United States at Paris, who will be instructed to make a proper use of it for obtaining a repeal of the French decree of Berlin, and to proceed, concurrently with you, in bringing about suc-

cessive removals by the two governments of all their predatory edicts. I avail myself of this occasion to state to you, that it is deemed of great importance that our ministers at foreign courts, and especially at Paris and London, should be kept, the one by the other, informed of the state of our affairs at each.

I have the honour to be, &c.

R. SMITH.

William Pinkney, Esq. &c. &c. &c.

Mr. Madison to Mr. Thornton, Charge des Affairs of his Britannick Majesty. Department of State, October 27, 1803.

SIR,—The letters of which copies are enclosed, were received last evening. One of them is from the British consul general at New York; the other, a copy enclosed therein, of a letter to him from commodore Hood, commander in chief of his Britannick majesty's ships of war on a West India station. The letter bears date of the 25th of July last, and requests that the American government and agents of neutral nations might be made acquainted, that the islands of Martinique and Guadaloupe are, and have been blockaded from the 17th of June, preceding, by detachments from the squadron under his command; in order that there may be no plea for attempting to enter the ports of those islands.

It will, without doubt, occur to you, sir, that such a communication would have been more properly made through another channel, than directly from the consulate at New York. The importance and urgency of the subject however supercede the consideration of forms, and I lose no time in communicating to you the observations which the President deems it to require.

It will not escape your attention, that commodore Hood's letter is dated no less than three months before it could have the effect of a notification, and that besides this remarkable delay, the alleged blockade is computed from a date more than one month prior to that of the letter itself. But these circumstances, however important it may be, do not constitute the main objection to the proceeding of the British commander. His letter, instead of stating that a particular port or ports were blockaded, by a force ac-

tually before them, declares, generally, two entire and considerable islands to be in a state of blockade. It can never be admitted that the trade of a neutral nation in articles not contraband can be legally obstructed to any place not actually blockaded, or that any notification or proclamation can be of force, unless accompanied with an actual blockade. The law of nations is perhaps more clear on no other point than of that of a siege or blockade, such as will justify a belligerent nation in restraining the trade of neutrals. Every term, used in defining the case, imports the presence and position of a force, rendering access to the prohibited place manifestly difficult and dangerous. Every jurist of reputation, who treats with precision this branch of the law of nations, refers to an actual and particular blockade. Not a single treaty can be found which undertakes to define a blockade, in which the definition does not exclude a general or nominal blockade, by limiting it to the case of a sufficient force so disposed as to amount to an actual and particular blockade. To a number of such treaties Great Britain is a party. Not to multiply references on the subject, I confine myself to the fourth article of the convention, of June, 1801, between Great Britain and Russia, which having been entered into for the avowed purpose "*of settling an invariable determination of their principles upon the rights of neutrality,*" must necessarily be considered as a solemn recognition of an existing and general principle and right, not as a stipulation of any new principle or right limited to the parties themselves. The article is in the words following: "That in order to determine what characterizes a blockaded port, that denomination is given only to a port where there is, by the dispositions of the power which attacks it with ships stationary or sufficiently near, an evident danger of entering." It cannot be necessary to dwell on the inconsistency of the kind of blockade declared by commodore Hood, with the principle laid down concerning the rights of neutrality; or on the consequences of the principle on which a blockade of whole islands by a few ships is founded, to the commerce and interests of neutral nations. If the islands of Martinique and Guadaloupe, the latter not less than two hundred and fifty, and the former nearly one hundred and fifty miles in circumference, and each containing a variety of ports, can be blockaded by detachments

from a commodore's squadron, it is evident that a very inconsiderable portion of the British fleet may blockade all the maritime countries with which she is at war. In a word, such a principle completely sacrifices the rights of neutral commerce to the pleasure or the policy of the parties at war. But it deserves to be particularly remarked, that a power, to proclaim general blockades, or any blockade not formed by the real presence of a sufficient force, to be exercised by officers at a distance from the control of their government, and deeply interested in enlarging the field of captures which they are to share, offers a temptation that must often aggravate the evils incident to the principle itself. You will infer, sir, from these observations, the serious light in which the President regards the proceeding which is the subject of them ; and will perceive the grounds on which the injuries accruing from it to our commerce, will constitute just claims of indemnification from the British government. To diminish the extent of these injuries as much as possible, and to guard the good understanding and friendly relations of every sort, which are so desirable to both nations, against the tendency of such measures, will, I venture to assure myself, be sufficient motives with you to employ the interpositions with commodore Hood, which you may judge best adapted to the nature of the case.

I have the honour to be, &c.

JAMES MADISON.

Edward Thornton, Esq. &c. &c. &c.

Mr. Smith to Mr. Pinkney. Department of State, July 5, 1810.

SIR,—Your last communications having afforded so little ground for expecting, that the British government will have yielded to the call on it to originate the annulment of the belligerent edicts against our lawful commerce, by cancelling the spurious blockade of May, 1806, (the first in the series) it became a duty, particularly incumbent upon us, to press the other experiment held out in the late act of Congress, another copy of which is herewith sent. You will accordingly make that act, and the disposition of

the President to give it effect, the subject of a formal communication.

The British government ought not to be insensible of the tendency of superadding, to a refusal of the course proposed by France for mutually abolishing the predatory edicts, a refusal of the invitation held out by Congress; and it ought to find in that consideration a sufficient inducement to a prompt and cordial concurrence. The British government must be conscious also of its having repeatedly stated, that the acquiescence by the United States in the decrees of France, was the only justification of its orders against our neutral commerce. The sincerity and consistency of Great Britain being now brought to the test, an opportunity is afforded to evince the existence of both. It may be added, that the form in which it is prescribed is as conciliatory as the proposal itself is unexceptionable.

As the act of Congress, repealing the late restrictions on the commerce of the United States with the two belligerents, must be unequal in its operation, in case Great Britain should continue to interrupt it with France, inasmuch as France is unable to interrupt it materially with her, the British government may feel a temptation to decline a course which might put an end to this advantage. But if the unworthiness and unfriendliness of such a purpose should not divert her from it, she ought not to overlook either the opportunity afforded her enemy of retorting the inequality, by a previous compliance with the act of Congress, or the necessity to which the United States may be driven, by such an abuse of their amicable advances, to resume, under new impressions, the subject of their foreign relations.

If the British government should be disposed to meet in a favourable manner the arrangement tendered, and should ask for explanations, as to the extent of the repeal of the French decrees which will be required, your answer will be as obvious as it must be satisfactory. The repeal must embrace every part of the French decrees which violate the neutral rights guarantied to us by the law of nations. Whatever parts of the decrees may not have this effect, as we have no right, as a neutral nation, to demand a recall of them, Great Britain can have no pretext, as a belligerent nation, to urge the demand. If there be parts

of the decrees liable to objections of another kind, it lies with the United States alone to decide on the mode of proceeding with respect to them.

In explaining the extent of the repeal, which, on the British side, is required, you will be guided by the same principle. You will accordingly let it be distinctly understood, that it must necessarily include an annulment of the blockade of May, 1806, which has been avowed to be comprehended in, and identified with the orders in council; and which is palpably at variance with the law of nations. This is the explanation which will be given to the French government on this point by our minister at Paris, in case it should there be required.

But there are plain and powerful reasons why the British government ought to revoke every other blockade, resting on proclamations or diplomatic notifications, and not on the actual application of a naval force adequate to a real blockade.

1st. This comprehensive redress is equally due from the British government to its professed respect for the laws of nations, and to the just claims of a friendly power.

2d. Without this enlightened precaution, it is probable, and may indeed be inferred from the letter of the duke of Cadore to general Armstrong, that the French government will draw Great Britain and the United States to issue on the legality of such blockades, by acceding to the act of Congress, with a condition, that a repeal of the blockades shall accompany a repeal of the orders in council, alleging, that the orders and blockades, differing little, if at all, otherwise than in name, a repeal of the former, leaving in operation the latter, would be a mere illusion.

3d. If it were even to happen, that a mutual repeal of the orders and decrees could be brought about without involving the subject of blockades, and with a continuance of the blockades in operation, how could the United States be expected to forbear an immediate call for their annulment, or how long would it probably be before an appeal by France to the neutral law of impartiality would bring up the same question between the United States and Great Britain? and from whatever circumstances the issue on it may arise, the impossibility of maintaining the British side, with even a colour of right or consistency, may be seen in the view taken of the subject, in the correspon-

dence with Mr. Thornton and Mr. Merry, already in your hands.

If the British government should accede to the overture, contained in the act of Congress, by repealing or so modifying its edicts as that they will cease to violate our neutral rights, you will transmit the repeal, properly authenticated, to general Armstrong, and if necessary, by a special messenger, and you will hasten to transmit it also to this department.

With great respect, &c.

R. SMITH.

William Pinkney, Esq. &c. &c.

Mr. Smith to Mr. Pinkney. Department of State, July 17, 1810.

SIR,—You will herewith receive duplicates of my letters to you of the 13th, 16th and 30th June, and 2d and 5th July.

This despatch you will receive from lieutenant Spence, of the navy, who is to proceed from New York, in the sloop of war the *Hornet*. This publick vessel has been ordered to England and to France, not only for the purpose of transmitting despatches to you and to our functionaries at Paris, but for the further purpose of affording you, as well as him, a safe opportunity of conveying to this department, before the next meeting of Congress, full information of the ultimate policy, in relation to the United States, of the governments of England and France. And with a view to ensure her return to the United States in due season, her commanding officer has received orders not to remain in any port of Europe after the first day of October next. With respect therefore to the time you will detain Mr. Spence in London, you will be influenced by the information which you may receive from him, as to the orders he may have from the commanding officer of the *Hornet*.

I have the honour, &c. &c.

R. SMITH.

William Pinkney, Esq. &c. &c. &c.

*Mr. Smith to Mr. Pinkney. Department of State, Oct.
19, 1810.*

SIR,—Your despatch of the 24th of August, enclosing a newspaper statement of a letter from the duke of Cadore to general Armstrong, notifying a revocation of the Berlin and Milan decrees, has been received. It ought not to be doubted that this step of the French government will be followed by a repeal, on the part of the British government, of its orders in council. And if a termination of the crisis between Great Britain and the United States be really intended, the repeal ought to include the system of paper blockades, which differ in name only from the retaliatory system comprised in the orders in council. From the complexion of the British prints, not to mention other considerations, the paper blockades may however not be abandoned. There is hence a prospect that the United States may be brought to issue with Great Britain on the legality of such blockades. In such case, as it cannot be expected that the United States, founded as they are in law and in right, can acquiesce in the validity of the British practice, it lies with the British government to remove the difficulty. In addition to the considerations heretofore stated to you in former letters, you may bring to the view of the British government the retrospective operation of those diplomatic notifications of blockades, which consider a notice to the minister as a notice to his government, and to the merchants, who are at a distance of three thousand miles. It will recur to your recollection, that the present ministry, in the debates of parliament, in opposition to the authors of the orders of January, 1807, denied that they were warranted by the law of nations. The analogy between these orders and the blockade of May, 1806, in so far as both relate to a trade between enemy ports, furnishes an appeal to the consistency of those now in office, and an answer to attempts by them to vindicate the legality of that blockade. It is remarkable, also, that this blockade is founded on “the new and extraordinary means resorted to by the enemy for the purpose of distressing the commerce of British subjects.” What are those means? In what respect do they violate our *neutral* rights? Are they still in ope-

ration? It is believed that true answers to these questions will enforce the obligation of yielding to our demands on this subject. You may also refer the British government to the characteristic definition of a blockaded port, as set forth in their treaty with Russia, of June, 1801, the preamble of which declares, that one of its objects was to settle "an invariable determination of their principles upon the *rights of neutrality*."

Should the British government unexpectedly resort to the pretext of an acquiescence on the part of the United States in their practice, it may be remarked, that prior to, as well as during the present administration, this government has invariably protested against such pretensions; and in addition to other instances heretofore communicated to you, I herewith transmit to you an extract of a letter to the department of state, of July 15, 1799, from Mr. King, our minister at London, and also such part of Mr. Marshall's letter to him, of the 20th September, 1800, as relates to the subject of blockades. And it may moreover be urged, that the principle now contended for by the United States was maintained against others, as well as Great Britain, as appears from the accompanying copy of the letter to our minister at Madrid in the year 1801. To this principle the United States also adhered when a belligerent, as in the case of the blockade of Tripoli, as will be seen by the annexed letter from the navy department. You will press on the justice, friendship and policy of Great Britain, such a course of proceeding as will obviate the dilemma resulting to the United States from a refusal to put an end to the paper blockades, as well as the orders in council.

The necessity of revoking the blockade of Copenhagen, as notified to you in May, 1808, will not escape your attention. Its continuance may embarrass us with Denmark, if not with France.

Your answer as to the Corfu blockade is approved; and should the answer to it render a reply necessary, the President directs you to remonstrate against such a blockade, availing yourself, as far as they may be applicable, of the ideas in the letter to Mr. Charles Pinckney, of October, 1801, and particularly of the proof it affords of our early remonstrance against the principle of such blockades.

No communication having yet been made by general Armstrong of a letter to him from the duke of Cadore, declaring that the Berlin and Milan decrees will cease to be in force from the first day of November next, I can at this time only inform you, that if the proceedings of the French government, when officially received, should correspond with the printed letter of the duke of Cadore, enclosed in your despatch, you will let the British government understand, that on the first day of November the President will issue his proclamation, conformably to the act of Congress, and that the non-intercourse law will consequently be revived against Great Britain. And if the British government should not, with the early notice received of the repeal of the French decrees, have revoked all its orders which violate our neutral rights, it should not be overlooked that Congress, at their approaching session, may be induced not to wait for the expiration of the three months, (which were allowed on the supposition that the first notice might pass through the United States) before they give effect to the renewal of the non-intercourse. This consideration ought to have its weight, in dissuading the British government from the policy, in every respect misjudged, of procrastinating the repeal of its illegal edicts.

If the British government be sincerely disposed to come to a good understanding, and to cultivate a friendly intercourse with the United States, it cannot but be sensible of the necessity, in addition to a compliance with the act of Congress, of concluding at this time a general arrangement of the topicks between the two countries ; and, above all, such an one as will upon equitable terms, effectually put a stop to the insufferable vexations to which our seamen have been, and yet are exposed, from the British practice of impressment ; a practice which has so strong a bearing on our neutrality, and to which no nation can submit consistently with its independency. To this very interesting subject you will therefore recall the attention of the British government, and you will accordingly consider yourself hereby authorized to discuss and adjust the same separately, conformably to the instructions in my letter to you of the 20th January last, on the condition, however, contained in that letter, namely, that the requisite atonement shall have been previously made in the

case of the outrage on the Chesapeake. But, as in this case every admissible advance has been exhausted on the part of the United States, it will be improper to renew the subject to the British government, with which it must lie to come forward with the requisite satisfaction to the United States. You will therefore merely evince a disposition to meet, in a conciliatory form, any overtures that may be made on the part of the British government.

The British government having so long omitted to fulfil the just expectations of the United States, in relation to a successor to Mr. Jackson, notwithstanding the reiterated assurances to you of such an intention, has no claims to further indulgence. On the receipt of this letter, therefore, should the appointment of a plenipotentiary successor not have been made and communicated to you, you will let your purpose be known of returning to the United States, unless, indeed, the British government should have unequivocally manifested a disposition to revoke their orders in council, conformably to the act of Congress of May last, and our affairs with them should have accordingly taken so favourable a turn as to justify, in your judgment, a further suspension of it.

I have the honour, &c. &c.

R. SMITH.

William Pinkney, Esq. &c. &c. &c.

Extract of a Letter from Mr. King, Minister Plenipotentiary of the United States, at London, to Mr. Pickering, Secretary of State. London, July 15, 1799.

“SEVEN or eight of our vessels, laden with valuable cargoes, have been lately captured, and are still detained for adjudication; these vessels were met in their voyages to and from the Dutch ports declared to be blockaded. Several notes have passed between lord Grenville and me upon this subject, with the view, on my part, of establishing a more limited and reasonable interpretation of the law of blockade than is attempted to be enforced by the English government. Nearly one hundred Danish, Russian, and other neutral ships, have, within a few months, been in like manner intercepted going to and returning from the United Provinces. Many of them, as well as some of ours, arrived

in the Texel in the course of the last winter, the severity of which obliged the English fleet to return to their ports, leaving a few frigates only to make short cruises off the Texel as the season would allow.

My object has been to prove that in this situation of the investing fleet there can be no effective blockade, which, in my opinion, cannot be said to exist without a competent force stationed and present at or near the entrance of the blockaded port."

*Extract of a Letter from Mr. King to Lord Grenville.
Downing Street, London, May 23, 1799.*

"It seems scarcely necessary to observe, that the presence of a competent force is essential to constitute a blockade; and although it is usual for the belligerent to give notice to neutral nations when he institutes a blockade, it is not customary to give any notice of its discontinuance; and that consequently the presence of the blockading force is the natural criterion by which the neutral is enabled to ascertain the existence of the blockade; in like manner as the actual investment of a besieged place is the only evidence by which we decide whether the siege is continued or raised. A siege may be commenced, raised, recommenced, and raised again, but its existence at any precise time must always depend upon the fact of the presence of an investing army. This interpretation of the law of blockade is of peculiar importance to nations situated at a great distance from each other, and between whom a considerable length of time is necessary to send and receive information."

*Extract of a Letter from Mr. Marshall, Secretary of State
to Mr. King. September 20, 1800.*

"2dly. THE right to confiscate vessels bound to a blockaded port, has been unreasonably extended to cases not coming within the rule, as heretofore adopted.

On principle it might well be questioned, whether this rule can be applied to a place not completely invested by land as well as by sea. If we examine the reasoning on which is founded the right to intercept and confiscate sup-

plies designed for a blockaded town, it will be difficult to resist the conviction, that its extension to towns invested by sea only is an unjustifiable encroachment on the rights of neutrals. But it is not of this departure from principle, a departure which has received some sanction from practice, that we mean to complain. It is, that ports, not effectually blockaded by a force capable of completely investing them, have yet been declared in a state of blockade, and vessels attempting to enter therein have been seized, and on that account confiscated.

This is a vexation proceeding directly from the government, and which may be carried, if not resisted, to a very injurious extent. Our merchants have greatly complained of it with respect to Cadiz and the ports of Holland.

If the effectiveness of the blockade be dispensed with, then every port of all the belligerent powers may, at all times, be declared in that state, and the commerce of neutrals be thereby subjected to universal capture. But if this principle be strictly adhered to, the capacity to blockade will be limited by the naval force of the belligerent, and, of consequence, the mischief to neutral commerce cannot be very extensive. It is, therefore, of the last importance to neutrals, that this principle be maintained unimpaired.

I observe that you have pressed this reasoning on the British minister, who replies, that an occasional absence of a fleet from a blockaded port ought not to change the state of the place.

Whatever force this observation may be entitled to, where that occasional absence has been produced by accident, as a storm, which for a moment blows off the fleet, and forces it from its station, which station it immediately resumes, I am persuaded, that where a part of the fleet is applied, though only for a time, to other objects, or comes into port, the very principle, requiring an effective blockade, which is, that the mischief can then only be co-extensive with the naval force of the belligerent, requires, that during such temporary absence the commerce of neutrals to the place should be free."

Extract of a Letter from Mr. Madison to Mr. Charles Pinckney, Minister Plenipotentiary of the United States, at Madrid. Department of State, Washington, October 25, 1801.

“ THE pretext for the seizure of our vessels seems at present to be, that Gibraltar has been proclaimed in a state of blockade, and that the vessels are bound to that port. Should the proceeding be avowed by the Spanish government, and defended on that ground, you will be able to reply :

1st. That the proclamation was made as far back as the 15th February, 1800, and has not since been renewed ; that it was immediately protested against by the American and other neutral ministers at Madrid, as not warranted by the real state of Gibraltar, and that no violations of neutral commerce having followed the proclamation, it was reasonably concluded to have been rather a menace against the enemies of Spain, than a measure to be carried into execution against her friends.

2d. That the state of Gibraltar is not, and never can be admitted by the United States to be that of a real blockade. In this doctrine they are supported by the law of nations, as laid down in the most approved commentators, by every treaty which has undertaken to define a blockade, particularly* those of latest date among the maritime nations of Europe, and by the sanction of Spain herself, as a party to the armed neutrality in the year 1781. The spirit of articles xv. and xvi. of the treaty between the United States and Spain, may also be appealed to as favouring a liberal construction of the rights of the parties in such cases. In fact, this idea of an investment, a siege or a blockade, as collected from the authorities referred to, necessarily results from the force of those terms ; and though it has been sometimes grossly violated or evaded by powerful nations in pursuit of favourite objects, it has invariably kept its place in the code of publick law, and cannot be shown to have been expressly renounced in a single stipulation between particular nations.

* See late treaties between Russia and Sweden, and between Russia and Great Britain.

3d. That the situation of the naval force at Algesiras, in relation to Gibraltar, has not the shadow of likeness to a blockade, as truly and legally defined. This force can neither be said to invest, besiege or blockade the garrison, nor to guard the entrance into the port. On the contrary, the gun boats infesting our commerce have their stations in another harbour, separated from that of Gibraltar by a considerable bay ; and are so far from beleaguering their enemy at that place, and rendering the entrance into it dangerous to others, that they are, and ever since the proclamation of the blockade have been, for the most part, kept at a distance by a superior naval force, which makes it dangerous to themselves to approach the spot.

4th. That the principle on which the blockade of Gibraltar is asserted, is the more inadmissible, as it may be extended to every other place, in passing to which vessels must sail within the view and reach of the armed boats belonging to Algesiras. If, because a neutral vessel bound to Gibraltar can be annoyed and put in danger by way-laying cruisers, which neither occupy the entrance into the harbour nor dare approach it, and by reason of that danger is liable to capture, every part of the Mediterranean coasts and islands, to which neutral vessels must pass through the same danger, may with equal reason be proclaimed in a state of blockade, and the neutral vessels bound thereto made equally liable to capture : Or if the armed vessels from Algesiras alone, should be insufficient to create this danger in passing into the Mediterranean, other Spanish vessels, co-operating from other stations, might produce the effect, and thereby not only blockade any particular port of any particular nation, but blockade at once a whole sea surrounded by many nations. Like blockades might be proclaimed by any particular nation, enabled by its naval superiority to distribute its ships at the mouth of the same, or any similar sea, or across channels or arms of the sea, so as to make it dangerous for the commerce of other nations to pass to its destination. These monstrous consequences condemn the principle from which they flow, and ought to unite against it every nation, Spain among the rest, which has an interest in the rights of the sea. Of this, Spain herself appears to have been sensible in the year 1780, when she yielded to Russia ample satisfaction for seizures of

her vessels made under the pretext of a general blockade of the Mediterranean, and followed it with her accession to the definition of a blockade contained in the armed neutrality.

5th. That the United States have the stronger ground for remonstrating against the annoyance of her vessels, on their way to Gibraltar, inasmuch as, with very few exceptions, their object is not to trade there for the accommodation of the garrison, but merely to seek advice or convoy, for their own accommodation, in the ulterior objects of their voyage. In disturbing their course to Gibraltar, therefore, no real detriment results to the enemy of Spain, whilst a heavy one is committed on her friends. To this consideration it may be added, that the real object of the blockade is, to subject the enemy to privations, which may co-operate with external force in compelling them to surrender; an object which cannot be alleged in a case, where it is well known that Great Britain can, and does at all times, by her command of the sea, secure to the garrison of Gibraltar every supply which it wants.

6th. It is observable that the blockade of Gibraltar is rested by the proclamation, on two considerations: one, that it is necessary to prevent illicit traffick, by means of neutral vessels, between Spanish subjects and the garrison there; the other, that it is a just reprisal on Great Britain for the proceedings of her naval armaments against Cadiz and St. Lucar. The first can surely have no weight with neutrals, but on a supposition, never to be allowed, that the resort to Gibraltar, under actual circumstances, is an indulgence from Spain, not a right of their own; the other consideration, without examining the analogy between the cases referred to and that of Gibraltar, is equally without weight with the United States, against whom no right can accrue to Spain from its complaints against Great Britain; unless it could be shown that the United States were in an unlawful collusion with the latter; a charge which they well know that Spain is too just and too candid to insinuate. It cannot even be said that the United States have acquiesced in the depredations committed by Great Britain, under whatever pretexts, on their lawful commerce. Had this indeed been the case, the acquiescence ought to be regarded as a sacrifice made by prudence to a love of peace, of which all nations furnish

occasional examples, and as involving a question between the United States and Great Britain, of which no other nation could take advantage against the former. But it may be truly affirmed, that no such acquiescence has taken place. The United States have sought redress for injuries from Great Britain as well as from other nations. They have sought it by the means which appeared to themselves, the only rightful judges, to be the best suited to their object; and it is equally certain, that redress has in some measure been obtained, and that the pursuit of complete redress is by no means abandoned.

7th. Were it admitted that the circumstances of Gibraltar, in February, 1800, the date of the Spanish proclamation, amounted to a real blockade, and that the proclamation was therefore obligatory on neutrals; and were it also admitted that the present circumstances of that place amount to a real blockade, (neither of which can be admitted,) still the conduct of the Algesiras cruisers is altogether illegal and unwarrantable. It is illegal and unwarrantable, because the force of the proclamation must have expired whenever the blockade was actually raised, as must have been unquestionably the case since the date of the proclamation, particularly and notoriously when the port of Algesiras itself was lately entered and attacked by a British fleet, and because, on a renewal of the blockade, either a new proclamation ought to have issued, or the vessels making for Gibraltar ought to have been pre-mo-nished of their danger, and permitted to change their course as they might think proper. Among the abuses committed under pretext of war, none seem to have been carried to greater extravagance, or to threaten greater mischief to neutral commerce, than the attempts to substitute fictitious blockades by proclamation, for real blockades formed according to the law of nations; and consequently none against which it is more necessary for neutral nations to remonstrate effectually, before the innovations acquire maturity and authority from repetitions on one side, and silent acquiescence on the other."

*Mr. Smith, Secretary of the Navy, to Commodore Preble.
Navy Department, Feb. 4, 1804.*

SIR,—Your letter of the 12th November, enclosing your circular notification of the blockade of the port of Tripoli, I have received.

Sensible, as you must be, that it is the interest, as well as the disposition of the United States, to maintain the rights of neutral nations, you will, I trust, cautiously avoid whatever may appear to you to be incompatible with those rights. It is however deemed necessary, and I am charged by the President to state to you, what, in his opinion, characterizes a blockade. I have therefore to inform you, that the trade of a neutral in articles not contraband, cannot be rightfully obstructed to any port, not actually blockaded by a force so disposed before it, as to create an evident danger of entering it. Whenever therefore you shall have thus formed a blockade of the port of Tripoli, you will have a right to prevent any vessel from entering it, and to capture for adjudication, any vessel that shall attempt to enter the same, with a knowledge of the existence of the blockade. You will however not take as prize any vessel, attempting to enter the port of Tripoli, without such knowledge; but in every case of an attempt to enter, without a previous knowledge of the existence of the blockade, you will give the commanding officer of such vessel notice of such blockade, and forewarn him from entering. And if, after such a notification, such vessel should again attempt to enter the same port, you will be justifiable in sending her into port for adjudication. You will, sir, hence perceive that you are to consider your circular communication to the neutral powers, not as an evidence that every person attempting to enter has previous knowledge of the blockade, but merely as a friendly notification to them of the blockade, in order that they might make the necessary arrangements for the discontinuance of all commerce with such blockaded port.

I am, &c. &c.

R. SMITH,

Commodore Preble.

Extracts from a Letter of Mr. Smith to Mr. Pinkney. Department of State, Nov. 2, 1810.

“WITH the duplicate of my letter to you of the 19th ult. I now send you a copy of the President’s proclamation, founded on the repeal of the Berlin and Milan decrees. Enclosed you will also receive a copy of my letter to general Armstrong, of this day, which will afford you a view of the reservations and understanding under which this proclamation has been issued.

“To the copy of the proclamation herewith transmitted in relation to West Florida, and to my letter to general Armstrong touching the same, I refer you for information as to the views of this government in taking possession of that country, and as to the considerations which had constrained the President at this juncture to resort to this measure.

“This despatch will be delivered to you by one of the officers of the United States’ frigate *Essex*, who will have orders to return to his ship as soon as he shall have received such letters as you may deem it necessary to transmit to this department.”

Mr. Smith to Mr. Pinkney. Department of State, Nov. 15, 1810.

SIR,—From a review of the conduct of the British government, in relation to a plenipotentiary successor to Mr. Jackson, as presented in your several communications, including even those brought by the *Hornet*, at which date and on which inviting occasion the subject does not appear to have been within the attention of the government, the President thinks it improper that the United States should continue to be represented at London by a minister plenipotentiary. In case, therefore, no appointment of a successor to Mr. Jackson of that grade should have taken place at the receipt of this letter, you will consider your functions as suspended, and you will accordingly take your leave of *absence*, charging a fit person with the affairs of the legation.

Considering the season at which this instruction may have its effect, and the possibility of a satisfactory change in the posture of our relations with Great Britain, the time of your return to the United States is left to your discretion and convenience.

I have the honour, &c. &c.

R. SMITH.

Wm. Pinkney, Esq. &c. &c.

*Mr. Smith to General Armstrong. Department of State.
June 5, 1810.*

SIR,—Your letters of the 17th, 18th, and 21st February, and 10th, 15th, 21st, and 24th March, with their several enclosures, were received on the 21st May.

As the John Adams is daily expected, and as your further communications by her will better enable me to adapt to the actual state of our affairs with the French government, the observations proper to be made in relation to their seizure of our property, and to the letter of the duke of Cadore of the 14th of February, it is by the President deemed expedient not to make at this time any such animadversions. I cannot, however, forbear informing you, that a high indignation is felt by the President, as well as by the publick, at this act of violence on our property, and at the outrage, both in the language and in the matter, of the letter of the duke of Cadore, so justly portrayed in your note to him of the 10th of March.

The particular object of this letter is to add to my despatches of the 4th and 22d May, another chance of hastening into your hands a copy of the act of Congress of the last session, concerning the commercial intercourse between the United States and Great Britain and France.

In the fourth section of this act you will perceive a new modification of the authority given to the President. If there be sincerity in the language held at different times by the French government, and, especially, in the late overture to proceed to amicable and just arrangements in case of our refusal to submit to the British orders in council, no pretext can be found for longer declining to put an end to the decrees of which the United States have so justly complained. By putting in force, agreeably to

the terms of this statute, the non-intercourse against Great Britain, the very species of resistance would be made which France has been constantly representing as most efficacious. It may be added, that the form in which the law now presents the overture is as well calculated, as the overture itself, to gain a favourable attention, inasmuch as it may be regarded by the belligerent, first accepting it, as a promise to itself, and a threat only to its adversary.

If, however, the arrangement contemplated by the law should be acceptable to the French government, you will understand it to be the purpose of the President not to proceed in giving it effect, in case the late seizure of the property of the citizens of the United States has been followed by an absolute confiscation, and restoration be finally refused. The only ground, short of a preliminary restoration of the property, on which the contemplated arrangement can be made, will be an understanding that the confiscation is reversible, and that it will become immediately the subject of discussion, with a reasonable prospect of justice to our injured citizens.

I have the honour to be, &c.

R. SMITH.

General Armstrong, &c. &c.

*Mr. Smith to General Armstrong. Department of State,
July 2, 1810.*

SIR,—The enclosed is a copy of a letter of instruction to Mr. Pinkney, bearing the same date with this letter. You will thence perceive that if the answer of the British government to the representation and requisition which our minister at London may make, should be of a satisfactory nature, it will be transmitted to you without delay. In that case you will make a proper use of it, for obtaining a repeal of the Berlin decree, and you will proceed, concurrently with Mr. Pinkney, in bringing about successive removals by the two governments of all their predatory edicts.

I avail myself of this occasion to state to you, that it is deemed of great importance that our ministers at foreign

courts, and especially at Paris and London, should be kept, the one by the other, informed of the state of our affairs at each.

I have the honour to be, &c.

R. SMITH.

Gen. Armstrong, &c. &c. &c.

*Mr. Smith to General Armstrong. Department of State,
July 5, 1810.*

SIR,—The arrival of the John Adams brought your letters of 1st, 4th, 7th and 16th of April.

From that of the 16th of April it appears, that the seizures of the American property, lately made, had been followed up by its actual sale, and that the proceeds had been deposited in the emperor's *caisse privé*. You have presented in such just colours the enormity of this outrage, that I have only to signify to you, that the President entirely approves the step that has been taken by you, and that he does not doubt that it will be followed by you, or the person who may succeed you, with such further interpositions as may be deemed advisable. He instructs you particularly to make the French government sensible of the deep impression made here by so signal an aggression on the principles of justice and of good faith, and to demand every reparation of which the case is susceptible. If it be not the purpose of the French government to remove every idea of friendly adjustment with the United States, it would seem impossible but that a reconsideration of this violent proceeding must lead to a redress of it, as a preliminary to a general accommodation of the differences between the two countries.

At the date of the last communication from Mr. Pinkney, he had not obtained from the British government an acceptance of the condition, on which the French government was willing to concur, in putting an end to all the edicts of both, against our neutral commerce. If he should afterwards have succeeded, you will of course, on receiving information of the fact, immediately claim from the French government the fulfilment of its promise, and by transmitting the result to Mr. Pinkney, you will co-ope-

rate with him in completing the removal of all the illegal obstructions to our commerce.

Among the documents now sent is another copy of the act of Congress, repealing the non-intercourse law, but authorizing a renewal of it against Great Britain, in case France shall repeal her edicts and Great Britain refuse to follow her example, and *vice versa*. You have been already informed that the President is ready to exercise the power vested in him for such a purpose, as soon as the occasion shall arise. Should the other experiment, in the hands of Mr. Pinkney, have failed, you will make the act of Congress, and the disposition of the President, the subject of a formal communication to the French government, and it is not easy to conceive any ground, even specious, on which the overture specified in the act can be declined.

If the non-intercourse law, in any of its modifications, was objectionable to the emperor of the French, that law no longer exists.

If he be ready, as has been declared in the letter of the duke of Cadore of February 14, to do justice to the United States, in the case of a pledge on their part not to submit to the British edicts, the opportunity for making good the declaration is now afforded. Instead of submission, the President is ready, by renewing the non-intercourse against Great Britain, to oppose to her orders in council a measure, which is of a character that ought to satisfy any reasonable expectation. If it should be necessary for you to meet the question, whether the non-intercourse will be renewed against Great Britain, in case she should not comprehend, in the repeal of her edicts, her blockades, which are not consistent with the law of nations, you may, should it be found necessary, let it be understood, that a repeal of the illegal blockades of a date prior to the Berlin decree, namely, that of May, 1806, will be included in the condition required of Great Britain; that particular blockade having been avowed to be comprehended in, and of course identified with the orders in council. With respect to blockades, of a subsequent date or not, against France, you will press the reasonableness of leaving them, together with future blockades not warranted by public law, to be proceeded against by the United States in the manner they may choose to adopt. As has been heretofore stated to you, a satisfactory provision for restoring

the property lately surprized and seized by the order or at the instance of the French government, must be combined with a repeal of the French edicts, with a view to a non-intercourse with Great Britain : such a provision being an indispensable evidence of the just purpose of France towards the United States. And you will, moreover, be careful, in arranging such a provision for that particular case of spoliations, not to weaken the ground on which a redress of others may be justly pursued.

If the act of Congress which has legalized a free trade with both the belligerents, without guarding against British interruptions of it with France, whilst France cannot materially interrupt it with Great Britain, be complained of as leaving the trade on the worst possible footing for France, and on the best possible one for Great Britain, the French government may be reminded of the other feature of the act, which puts it in their own power to obtain either an interruption of our trade with Great Britain, or a recall of her interruption of it with France.

Among the considerations which belong to this subject, it may be remarked, that it might have been reasonably expected, by the United States, that a repeal of the French decrees would have resulted from the British order in council of April, 1809. This order expressly revoked the preceding orders of November, 1807, heretofore urged by France in justification of her decrees, and was not only different in its extent and in its details, but was essentially different in its policy.

The policy of the orders of 1807 was, by cutting off all commercial supplies, to retort on her enemies the distress which the French decree was intended to inflict on Great Britain.

The policy of the order of April, 1809, if not avowedly, was most certainly to prevent such supplies, by shutting out those only which might flow from neutral sources, in order thereby to favour a surreptitious monopoly to British traders. In order to counteract this policy, it was the manifest interest of France to have favoured the rival and cheaper supplies through neutrals ; instead of which, she has co-operated with the monopolizing views of Great Britain by a vigorous exclusion of neutrals from her ports. She has in fact reversed the operation originally professed by her decree. Instead of annoying her enemy at the ex-

pense of a friend, she annoys a friend for the benefit of her enemy.

If the French government should accede to the overture contained in the act of Congress, by repealing or so modifying its decrees as that they will cease to violate our neutral rights, you will, if necessary, transmit the repeal, properly authenticated, to Mr. Pinkney by a special messenger, and you will hasten and ensure the receipt of it here, by engaging a vessel, if no equivalent conveyance should offer, to bring it directly from France, and by sending several copies to Mr. Pinkney to be forwarded from British ports.

I have the honour, &c. &c.

R. SMITH.

General Armstrong, &c. &c. &c.

*Mr. Smith to General Armstrong. Department of State.
July 17, 1810.*

SIR,—You will herewith receive duplicates of my letters to you of the 20th June, and 2d and 5th of July.

This despatch you will receive from lieutenant Miller of the navy, who is to proceed from New York in the sloop of war, the *Hornet*. This publick vessel has been ordered to England and to France, not only for the purpose of transmitting despatches to you and to our minister in London, but for the further purpose of affording you, as well as him, a safe opportunity of conveying to this department, before the next meeting of Congress, full information of the ultimate policy, in relation to the United States, of the governments of England and France. And with a view to ensure her return to the United States in due season, her commanding officer has received orders not to remain in any port of Europe, after the first day of October next. With respect therefore to the time you will detain Mr. Miller in Paris, you will be influenced by the information which you may receive from him, as to the orders he may have from the commanding officer of the *Hornet*.

I have the honour to be, &c.

R. SMITH.

General Armstrong, &c. &c.

*Extracts of a Letter from Mr. Smith to General Armstrong.
Department of State, Nov. 2, 1810.*

“ You will herewith receive a printed copy of the proclamation, which conformably to the act of Congress, has been issued by the President on the revocation of the Berlin and Milan decrees. You will however let the French government understand, that this has been done on the ground, that the repeal of these decrees does involve an extinguishment of all the edicts of France actually violating our neutral rights, and that the reservations under the expression “ it being understood,” are not conditions precedent, affecting the operation of the repeal, and on the ground also that the United States are not pledged against the blockades of Great Britain beyond what is stated in my letter to you of the 5th July. It is to be remarked, moreover, that in issuing the proclamation, it has been presumed that the requisition contained in that letter, on the subject of the sequestered property, will have been satisfied. This presumption is not only favoured by the natural connexion of the policy and justice of a reversal of that sequestration, with the repeal of the decrees, but is strengthened by concurrent accounts, through different channels, that such property as has been sequestered has been actually restored.”

“ The enclosed copy of my last letter to Mr. Pinkney of the 19th ultimo, will afford you a distinct view of the line of conduct presented to him in relation to the British orders and blockades.

“ This despatch will be delivered to you by one of the officers of the United States’ frigate Essex, who will have orders to return to his ship as soon as he shall have received such despatches as you may deem it necessary to transmit to this department.”

*Mr. Smith to General Armstrong. Department of State,
Nov. 5, 1810.*

SIR,—As the ground on which the French government has deemed it expedient to place the revocation of its decrees, may suggest to it the further pretext of requiring a

restoration of the French property seized here under the non-intercourse law, as a condition to their restoring the American property condemned or sequestered under the French decree of March, you are authorized, in case a restoration can be thus, and not otherwise obtained, to acquiesce in such an arrangement, and, if necessary, to give to such arrangement a conventional form, requiring the sanction of the Senate. You will, however, take care to avoid any expressions implying an acknowledgment, on the part of the United States, that the non-intercourse law, which was not retrospective, has any analogy to the French decree, the injustice of which essentially consists in its retrospective operation. In truth, the arrangement on the part of the United States will be little more than nominal, as will appear by the enclosed copy of a letter from the treasury department. It may be proper to remark, that the third section of the act of May, for the recovery of forfeitures under the non-intercourse law, contemplated violations by our own citizens rather than French violations, which could not have been of sufficient importance to have called for such a provision, pointing particularly at them.

I have the honour to be, &c.

R. SMITH.

General Armstrong, &c. &c.

Mr. Pinkney to Mr. Smith. London, Feb. 19, 1810.

SIR,—I received, on the 12th instant, by Mr. Powell, whom I had sent some time before to France, a letter from general Armstrong, of which a copy is enclosed; and, keeping in view the instructions contained in your letter to me of the 11th of November last, I have written to lord Wellesley to inquire whether any, and if any, what blockades of France, instituted by Great Britain during the present war, before the first of January, 1807, are understood here to be in force. A copy of my letter to lord Wellesley is enclosed.

It is not improbable that this official inquiry will produce a declaration, in answer to it, that none of those blockades are in force; and I should presume that such a declaration will be received in France as substantially

satisfying the condition announced to me by general Armstrong.

I am not aware that this subject could have been brought before the British government in any other form than that which I have chosen. It would not, I think, have been proper to have applied for a revocation of the blockades in question, (at least, before it is ascertained that they are in existence) or to have professed, in my letter to lord Wellesley, to found, upon general Armstrong's communication, my inquiry as to their actual state. I have, however, supposed it to be indispensable (and have acted accordingly) that I should explain to lord Wellesley, in conversation, the probability, afforded by general Armstrong's letter, that a declaration by this government to the effect above mentioned, would be followed by the recall of the Berlin decree.

I cannot, perhaps, expect to receive from lord Wellesley an answer to my letter, in time to send a copy by the John Adams, now in the Downs or at Portsmouth; but I will send it by an early opportunity, and will take care that general Armstrong shall be made acquainted with it without delay.

I have the honour to be, &c. &c.

WM. PINKNEY.

P. S. March 23, 1810. Since the writing of this letter, lord Wellesley has sent me the answer (of the 2d instant) of which a copy is now enclosed. It was not satisfactory, and I pointed out its deficiencies to lord Wellesley in conversation, and proposed to him that I should write him another letter requesting explanations. He assented to this course, and I have written him the letter of the 7th instant, of which also a copy is enclosed. His reply has been promised very frequently, but has not yet been received. I have reason to expect that it will be sufficient; but I cannot think of detaining the corvette any longer. The British packet will furnish me with an opportunity of forwarding it to you; and I will send Mr. Lee with it to Paris, by the way of Morlaix.

I have the honour to be, &c. &c.

WM. PINKNEY.

*From General Armstrong to Mr. Pinkney. Paris, Jan.
25, 1810.*

SIR,—A letter from Mr. Secretary Smith of the 1st of December last, made it my duty to inquire of his excellency the duke of Cadore, what were the conditions on which his majesty the emperor would annul his decree, commonly called the Berlin decree ; and whether, if Great Britain revoked her blockades, of a date anterior to that decree, his majesty would consent to revoke the said decree ? To these questions I have this day received the following answer, which I hasten to convey to you by a special messenger :

Answer.

“THE only conditions required for the revocation, by his majesty the emperor, of the decree of Berlin, will be a previous revocation, by the British government, of her blockades of France, or part of France (such as that from the Elbe to Brest, &c.) of a date anterior to that of the aforesaid decree.”

I have the honour to be, &c.

JOHN ARMSTRONG.

*Mr. Pinkney to Lord Wellesley. Great Cumberland
Place, Feb. 15, 1810.*

MY LORD.—In pursuance of the intimation which I had the honour to give to your lordship a few days ago, I beg to trouble your lordship with an inquiry, whether any, and if any, what blockades of France, instituted by Great Britain during the present war, before the 1st day of January, 1807, are understood by his majesty's government to be in force. I am not able at present to specify more than one of the blockades to which this inquiry applies ; namely, that from the Elbe to Brest, declared in May, 1806, and afterwards limited and modified ; but I shall be much obliged to your lordship for precise information as to the whole.

I have the honour to be, &c. &c.

WM. PINKNEY.

Lord Wellesley to Mr. Pinkney. Foreign Office, March 2, 1810.

SIR,—I have the honour to acknowledge the receipt of your note of the 15th ultimo, wherein you request to be informed whether any, and if any, what blockades of France, instituted by Great Britain during the present war, before the first day of January, 1807, are understood by his majesty's government to be in force? I have now the honour to acquaint you, that the coast, rivers and ports from the river Elbe to Brest, both inclusive, were notified to be under the restrictions of blockade, with certain modifications, on the 16th of May, 1806; and that these restrictions were afterwards comprehended in the order of council of the 7th of January, 1807, which order is still in force.

I have the honour to be, &c. &c.

WELLESLEY.

Mr. Pinkney to Lord Wellesley. Great Cumberland Place, March 7, 1810.

MY LORD,—I have had the honour to receive your lordship's answer of the 2d instant, to my letter of the 15th of last month, concerning the blockades of France, instituted by Great Britain during the present war, before the first day of January, 1807.

I infer from that answer, that the blockade notified by Great Britain in May, 1806, from the Elbe to Brest, is not itself in force, and that the restrictions, which it established, rest altogether, so far as such restrictions exist at this time, upon an order or orders in council issued since the first day of January, 1807.

I infer also, either that no other blockade of France was instituted by Great Britain during the period above mentioned, or that, if any other was instituted during that period, it is not now in force.

May I beg your lordship to do me the honour to inform me whether these inferences are correct, and, if incorrect, in what respects they are so?

I have the honour to be, &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith. London, Feb. 23, 1810.

SIR.—I have the honour to transmit enclosed a copy of a notification of the blockade of the “coast and ports of Spain, from Gijon to the French territory,” received from lord Wellesley two days ago. I have not yet given any answer to this communication.

I have the honour to be, &c.

WM. PINKNEY.

Lord Wellesley to Mr. Pinkney. Foreign Office, February 20, 1810.

THE undersigned, his majesty's principal secretary of state for foreign affairs, has received his majesty's commands to inform Mr. Pinkney, envoy extraordinary and minister plenipotentiary from the United States of America, that the king has judged it expedient to signify his commands to the lords commissioners of the admiralty, to establish a strict blockade of the coast and ports of Spain, from Gijon to the French territory, which will be maintained and enforced according to the usages of war acknowledged and observed in similar cases.

Mr. Pinkney is therefore requested to apprise the American consuls and merchants residing in England, that the whole of the Spanish coast above mentioned is, and must be considered as in a state of blockade; and that from this time all the measures authorized by the law of nations, and the respective treaties between his majesty and the different neutral powers, will be adopted and executed, with respect to vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

WELLESLEY.

Mr. Pinkney to Mr. Smith. London, March 21, 1810.

SIR,—On the 27th of December, Mr. Brownell delivered to me your letters of the 11th, 14th, and 23d of the preceding month, and on the Saturday following I had a

conference with the marquis Wellesley, in the course of which I explained to him fully the grounds upon which I was instructed to request Mr. Jackson's immediate recall, and upon which the official intercourse between that minister and the American government had been suspended.

Lord Wellesley's reception of what I said to him was frank and friendly ; and I left him with a persuasion that we should have no cause to be dissatisfied with the final course of his government on the subjects of our conference.

We agreed in opinion that this interview could only be introductory to a more formal proceeding on my part ; and it was accordingly settled between us, that I should present an official letter to the effect of my verbal communication.

Having prepared such a letter, I carried it myself to Downing-street a few days afterwards, and accompanied the delivery of it to lord Wellesley with some explanatory observations, with which it is not, I presume, necessary to trouble you. You will find a copy of this letter enclosed, and will be able to collect from it the substance of the greater part of the statements and remarks which I thought it my duty to make in the conversation above mentioned.

Although I was aware that the answer to my letter would not be very hastily given, I certainly was not prepared to expect the delay which has actually occurred. The President will do me the justice to believe, that I have used every exertion, consistent with discretion and the nature of the occasion, to shorten that delay ; which, though not ascribable, as I persuade myself, to any motive unfriendly or disrespectful to the United States, may, I am sensible, have been productive of some disadvantage. A copy of the answer, received on the day of its date, is enclosed.

Between the delivery of my letter and the receipt of the reply, I had frequent conversations with lord Wellesley, some of which were at his own request, and related altogether to the subject of my letter. The rest were on other subjects ; but Mr. Jackson's affair was incidentally mentioned in all. A particular account of what was said on these several occasions would scarcely be useful, and could not fail to be tedious. It will, perhaps, be sufficient to ob-

serve, that, although these conversations were less satisfactory to me than the first, there was always an apparent anxiety, on the part of lord Wellesley, to do what was conciliatory; and that, in the share which I took in them, I was governed by an opinion that, although it might become my duty to avoid, with more than ordinary care, all appearance of my being a party to the ultimate proceeding of the British government upon my official representation, it could not be otherwise than proper, in any turn which the affair could take, that I should avail myself of every opportunity of bringing to lord Wellesley's mind such considerations as were calculated to produce a beneficial influence upon the form and character of that proceeding. In what light the President will view the course, which after so much deliberation this government has adopted, it would not become me even to conjecture. If, either in manner or in effect, it should not fulfil his expectations, I shall have to regret that the success of my humble endeavours to make it what it ought to be, has not been proportioned to my zeal and diligence.

Of my letter to lord Wellesley, of the 2d of January, I have very little to say. I trust it will be found faithful to my instructions; and that, while it maintains the honour of my government, it does not neglect what is due to conciliation.

I am not sure that I ought to have quoted in it your letter to me of the 11th of November, of which the substance is undoubtedly given in the quotation from your subsequent letter of the 23d of the same month. But I saw no objection to a repetition of the just and amicable sentiments expressed in these quotations; and, as I had been induced, at my first interview with lord Wellesley, to read to his lordship each of the passages, I felt that I was in some sort bound to the introduction of both into my written communication.

My letter avoids all discussion, and all invitation to discussion, on the business of the Chesapeake, on the orders in council, and on other topicks which circumstances have connected with both. It does not, however, entirely pass them by; but contains such references to them as I supposed were likely to be useful. I feel assured, that in this respect I have acted in conformity with the President's intentions. Indeed, if I had acted otherwise, I should have

complicated and embarrassed a question, which I was ordered to simplify, and forced into combination the peculiar difficulties of several subjects, to counteract the wishes of my government upon each. I should have done so, too, without inducement ; for I had no authority to make any demand or proposal in the cases of the Chesapeake and orders in council, or to act upon any proposal which lord Wellesley might be inclined to make to me ; and it was perfectly clear that these subjects were not susceptible of any very material written illustrations which they had not already received. I did not, however, imagine that I was to make no use of the reflections upon them which you had furnished in your letter of the 23d of November. I was, on the contrary, convinced that it would be proper to suggest them occasionally in conversation, with a view to dispose lord Wellesley, and through him the British government, to seek such fair and liberal adjustments with us as would once more make us friends.

Accordingly, in my first conference, I spoke of the affair of the Chesapeake and the orders in council, and concluded my explanations, which did not lose sight of your letter of the 23d of November, by expressing a wish that lord Wellesley would allow me an early opportunity of a free communication with him on these heads. From the disposition evinced by lord Wellesley, in the notice which he took of these suggestions and of that wish, I was inclined to hope that it might be in my power to announce to you, by the return of the corvette, that a new envoy would be charged, as the successor of Mr. Jackson, with instructions adapted to the purpose of honourable accommodation. My letter to his lordship was written under the influence of this hope, and concludes, as you will perceive, with as strong an appeal to the disposition on which it rested as could with propriety be made.

I recurred, in subsequent conversations, as often as occasion presented itself, to the attack on the Chesapeake and to the orders in council. It soon appeared, however, that a new envoy would not, in the first instance, be sent out to replace Mr. Jackson, and consequently that an arrangement of these subjects was not in that mode to be expected. A special mission would still less be resorted to ; and it was not likely that approaches to negotiation would be made through a *charge d'affaires*. It was still

barely possible that, though I had no powers to negotiate and conclude, the British government might not be disinclined to make advances through me, or that lord Wellesley would suffer me so far to understand the views of his government as that I might enable you to judge upon what conditions and in what mode arrangement was practicable. This was possible, though not very probable ; but it finally became certain that no definite proposal would, for the present at least, be made to us through any channel, and that lord Wellesley would not commit himself, upon the details to which I wished him to speak, but upon which, of course, I did not press him.

It only remains to refer you, for the actual sentiments of this government, with regard to future negotiation, to the concluding paragraph of lord Wellesley's letter to me, which is substantially the same with his recent verbal explanations, and to add that, in a short conversation since the receipt of his letter, he told me that, if I thought myself empowered to enter upon and adjust the case of the Chesapeake, he would proceed without delay to consider it with me.

I have not supposed that lord Wellesley's letter requires any other than the common answer ; and I have accordingly given the reply of which a copy is now transmitted.

I have the honour to be, &c.

WILLIAM PINKNEY.

*Mr. Pinkney to Lord Wellesley. Great Cumberland Place,
Jan. 2, 1810.*

MY LORD,—In the course of the official correspondence which has lately taken place between the Secretary of State of the United States, and Mr. Jackson, his majesty's envoy extraordinary and minister plenipotentiary at Washington, it has unfortunately happened, that Mr. Jackson has made it necessary that I should receive the commands of the President to request his recall, and that in the mean time the intercourse between that minister and the American government should be suspended.

I am quite sure, my lord, that I shall best consult your lordship's wishes, and the respect which I owe to his majesty's government, by executing my duty on this occa-

sion with perfect simplicity and frankness. My instructions, too, point to that course, as required by the honour of the two governments, and as suited to the confidence which the President entertains in the disposition of his majesty's government to view in its true light the subject to which they relate. With such inducements to exclude from this communication every thing which is not intimately connected with its purpose, and, on the other hand, to set forth with candour and explicitness the facts and considerations which really belong to the case, I should be unpardonable if I fatigued your lordship with unnecessary details, or affected any reserve.

It is known to your lordship that Mr. Jackson arrived in America as the successor of Mr. Erskine, while the disappointment produced by the disavowal of the arrangement of the 19th of April, was yet recent, and while some other causes of dissatisfaction, which had been made to associate themselves with that disappointment, were in operation. But your lordship also knows, that his reception by the American government was marked by all that kindness and respect which were due to the representative of a sovereign, with whom the United States were sincerely desirous of maintaining the most friendly relations.

Whatever were the hopes which Mr. Jackson's mission had inspired, of satisfactory explanations and adjustments upon the prominent points of difference between the two countries, they certainly were not much encouraged by the conferences, in which, as far as he thought proper, he opened to Mr. Smith, soon after his arrival, the nature and extent of his powers and the views of his government. After an experiment, deemed by the government of the United States to be sufficient, it appeared that these conferences, necessarily liable to misconception and want of precision, were not likely to lead to any practical conclusion.

Accordingly, on the 9th of October, Mr. Smith addressed a letter to Mr. Jackson, in which, after stating the course of proceeding which the American government had supposed itself entitled to expect from him, with regard to the rejected arrangement and the matters embraced by it, and after recapitulating what Mr. Smith believed to have passed in their recent interviews relative to those subjects, he intimated that it was thought expedient that their fur-

ther discussions, on that particular occasion, should be in writing.

It is evident, my lord, from Mr. Jackson's reply of the 11th of the same month, that he received this intimation (which, carefully restricted as it was, he seems to have been willing to understand in a general sense) with considerable sensibility. He speaks of it in that reply as being without example in the annals of diplomacy; as a step against which it was fit to enter his protest; as a violation in his person of the most essential rights of a publick minister; as a new difficulty thrown in the way of a restoration of a thorough good understanding between the two countries.

I need not remark to your lordship that nothing of all this could with propriety be said of a proceeding, in itself entirely regular and usual, required by the state of the discussions to which only it was to be applied, and proposed in a manner perfectly decorous and unexceptionable. The government of the United States had expected from Mr. Jackson, an explanation of the grounds of the refusal on the part of his government to abide by Mr. Erskine's arrangement, accompanied by a substitution of other propositions. It had been collected from Mr. Jackson's conversations, that he had no power whatsoever to give any such explanation; or, in the business of the orders in council, to offer any substitute for the rejected agreement; or, in the affair of the Chesapeake, to offer any substitute that could be accepted; and, it had been inferred from the same conversations, that, even if the American government should propose a substitute for that part of the disavowed adjustment which regarded the orders in council, the substitute could not be agreed to (if, indeed, Mr. Jackson had power to do more than discuss it) unless it should distinctly recognise conditions which had already been declared to be wholly inadmissible.

To what valuable end, my lord, loose conversations, having in view, either no definite result, or none that was attainable, could, under such circumstances and upon such topics, be continued, it would not be easy to discover; and I think I may venture to assume that the subsequent written correspondence has completely shown, that they could not have been otherwise than fruitless, and that they were not too soon abandoned for that more formal course,

to which, from the beginning, they could only be considered as preparatory.

After remonstrating against the wish of the American government to give to the further discussions a written form, Mr. Jackson disposes himself to conform to it; and, speaking in the same letter of the disavowal of the arrangement of April, he declares that he was not provided with instructions to explain the motives of it; and he seems to intimate that explanation through him was unnecessary, not only because it had already been made through other channels, but because the government of the United States had entered into the arrangement with a knowledge "that it could only lead to the consequences that actually followed." In the conclusion of the fourth paragraph of the letter he informs Mr. Smith, that the despatch of Mr. Canning to Mr. Erskine, "which Mr. Smith had made the basis of an official correspondence with the latter minister, and which had been read to the American minister in London," was the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement with the United States on the matter to which it related.

Mr. Smith's answer to this letter bears date the 19th of October; and I beg your lordship's permission to introduce from it the following quotation: "The stress you have laid on what you have been pleased to state as the substitution of the terms finally agreed on" (in the arrangement of April, on the orders in council) "for the terms first proposed" (by Mr. Erskine) "has excited no small degree of surprise. Certain it is that your predecessor did present for my consideration the same conditions which now appear in the present document; that he was disposed to urge them more than the nature of two of them (both palpably inadmissible, and one more than merely inadmissible) could permit, and that on finding his first proposal unsuccessful, the more reasonable terms comprised in the arrangement respecting the orders in council, were adopted. And what is there in this to countenance the conclusion you have drawn in favour of the right of his Britannick majesty to disavow the proceeding? Is any thing more common in publick negotiations than to begin with a higher demand, and, that failing, to descend to a lower? To have, if not two sets of instructions, two, or more than two grades of propositions in the same set of instructions; to begin with

what is the most desirable, and to end with what is found to be admissible, in case the more desirable should not be attainable? This must be obvious to every understanding, and is confirmed by universal experience.

“What are the real and entire instructions given to your predecessor, is a question essentially between him and his government. That he had, or, at least, that he believed he had, sufficient authority to conclude the arrangement, his formal assurances during our discussions were such as to leave no room for doubt. His subsequent letter of the 15th of June, renewing his assurances to me, ‘that the terms of the agreement so happily concluded by the recent negotiation will be strictly fulfilled on the part of his majesty,’ is an evident indication of what his persuasion then was as to his instructions. And with a view to show what his impressions have been even since the disavowal, I must take the liberty of referring you to the annexed extracts (see C.) from his official letters of the 31st of July, and of the 14th of August.

“The declaration, ‘that the despatch from Mr. Canning to Mr. Erskine, of the 23d of January, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates,’ is now for the first time made to this government. And I need hardly add, if that despatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it, and which were at first presented by Mr. Erskine, were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made.”

I suppose, my lord, that it was impossible to disclaim for the American government, in more precise and intelligible language than is found in this quotation, all knowledge of Mr. Erskine’s instructions, incompatible with a sincere, honourable, and justifiable belief that he was, as he professed to be, fully authorized to make the agreement, in which he undertook to pledge the faith of his majesty’s government. Yet in Mr. Jackson’s next letter (of the 23d of October) to Mr. Smith, he says: “I have therefore no hesitation in informing you that his majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, because it was *in violation of that gentleman’s instructions*, and altogether without authority to subscribe to

the terms of it. *These instructions* I now understand from your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were at the time in substance made known to you. No stronger illustration, therefore, can be given of the deviation from them, which occurred, than by a reference to the terms of your agreement."

Your lordship will allow me to take for granted that this passage cannot be misunderstood. Its direct and evident tendency is to fasten upon the government of the United States, an imputation most injurious to its honour and veracity. The charge, that it had all along been substantially apprized, however it might affect to be ignorant, of the instructions, which Mr. Erskine's arrangement was said to have violated, had before been insinuated; but it is here openly made; in reply, too, to a paper, in which the contrary is formally declared by the official organ of the American government.

This harsh accusation, enhanced by the tone of the letter in which it appeared, was in all respects as extraordinary as it was offensive. It took the shape of an inference from facts and asseverations, which necessarily led to the opposite conclusion.

It was preferred as an answer to a claim of explanation which Mr. Jackson professed not to be authorized by his government to offer at all, but which he chose so to offer from himself as to convert explanation into insult. It was advanced not only without proof, and against proof, but against all colour of probability. It would scarcely have been advanced under any conviction that it was necessary to the case which Mr. Jackson was to maintain; for his majesty's government had disavowed Mr. Erskine's arrangement, according to Mr. Jackson's own representations, without any reference to the knowledge which this accusation imputed to the government of the United States: and it need not be stated that no allusion whatsoever was made to it, by Mr. Secretary Canning, in those informal communications to me, which Mr. Jackson has mentioned. It was not, moreover, to have been expected that, in the apparent state of Mr. Jackson's powers, and in the actual posture of his negotiation, he would seek to irritate where he could not arrange, and sharpen disappointment by studied and unprovoked indignity.

The course which the government of the United States adopted on this painful occasion, was such as at once demonstrated a sincere respect for the publick character with which Mr. Jackson was invested, and a due sense of its own dignity. Mr. Jackson's conduct had left a feeble hope that further intercourse with him, unproductive of good as it must be, might still be reconcilable with the honour of the American government. A fair opportunity was accordingly presented to him of making it so by Mr. Smith's letter of 1st of November, of which I beg leave to insert the concluding paragraph.

"I abstain, sir, from making any particular animadversions on several irrelevant and improper allusions in your letter, not at all comporting with the professed disposition to adjust in an amicable manner the differences unhappily subsisting between the two countries: But it would be improper to conclude the few observations to which I purposely limit myself, without adverting to your repetition of a language implying a knowledge, on the part of this government, that the instructions of your predecessor did not authorize the arrangement formed by him. After the explicit and peremptory asseveration that this government had no such knowledge, and that with such knowledge no such arrangement would have been entered into, the view which you have again presented of the subject makes it my duty to apprise you, that such insinuations are inadmissible in the intercourse of a foreign minister with a government that understands what it owes to itself."

Whatever was the sense in which Mr. Jackson had used the expressions to which the American government took exception, he was now aware of the sense in which they were understood, and consequently was called upon, if he had been misapprehended, to say so. His expressions conveyed an injurious meaning, supported moreover by the context; and the notice taken of them had not exceeded the bounds of just admonition. To have explained away even an imaginary affront, would have been no degradation; but, when an occasion was thus offered, to qualify real and severe imputations upon the government to which he was accredited, it could scarcely be otherwise than a duty to take immediate advantage of it.

Such, however, was not Mr. Jackson's opinion. He preferred answering the appeal, which had been made to him.

by reiterating with aggravations the offensive insinuation. He says, in the last paragraph of his letter, of the 4th of November, to Mr. Smith, " You will find that, in my correspondence with you, I have carefully avoided drawing conclusions *that did not necessarily follow from the premises advanced by me*, and least of all should I think of uttering an insinuation where I was unable to *substantiate a fact*. To facts, such as I have become acquainted with them, I have scrupulously adhered. *In so doing I must continue*, whenever the good faith of his majesty's government is called in question, to vindicate its honour and dignity, in the manner that appears to me best calculated for that purpose."

To this, my lord, there could be but one reply. Official intercourse with Mr. Jackson could no longer be productive of any effects that were not rather to be avoided than desired; and it was plainly impossible that it should continue. He was, therefore, informed by Mr. Smith, in a letter of the 8th of November, which recapitulated the inducements to this unavoidable step, that no further communications would be received from him; that the necessity of this determination would, without delay, be made known to his government, and that in the mean time a ready attention would be given to any communications, affecting the interests of the two nations, through any other channel that might be substituted.

The President has been pleased to direct that I should make known this necessity to his majesty's government, and at the same time request that Mr. Jackson be recalled. And I am particularly instructed to do this in a manner that will leave no doubt of the undiminished desire of the United States, to unite in all the means the best calculated to establish the relations of the two countries on the solid foundations of justice, of friendship, and of mutual interest. I am further particularly instructed, my lord, to make his majesty's government sensible, that, in requiring the recall of Mr. Jackson, the United States wish not to be understood as in any degree obstructing communications which may lead to a friendly accommodation; but that, on the contrary, they sincerely retain the desire, which they have constantly professed, to facilitate so happy an event, and that nothing will be more agreeable to them than to find the minister, who has ren-

dered himself so justly obnoxious, replaced by another, who, with a different character, may carry with him all the authorities and instructions requisite for the complete success of his mission ; or if the attainment of this object through my agency should be considered more expeditious or otherwise preferable, that it will be a course entirely satisfactory to the United States.

These instructions, which I lay before your lordship without disguise, require no comment.

Before I conclude this letter, it may be proper very shortly to advert to two communications received by Mr. Secretary Smith from Mr. Oakley after the correspondence with Mr. Jackson had ceased.

The first of these communications (of which I am not able to ascertain the date) requested a document having the effect of a special passport or safeguard for Mr. Jackson and his family, during their further stay in the United States. This application was regarded as somewhat singular ; but the document, of which the necessity was not perceived, was nevertheless furnished. The reason assigned for the application excited some surprise. I have troubled your lordship in conversation with a few remarks from my instructions, upon one of those reasons, which I will take the liberty to repeat. The paper in question states, that Mr. Jackson " had already been once most grossly insulted by the inhabitants of Hampton, in the unprovoked language of abuse held by them to several officers bearing the king's uniform, when those officers were themselves violently assaulted and put in imminent danger."

I am given to understand, my lord, that the insult here alluded to was for the first time brought under the notice of the American government by this paper ; that it had, indeed, been among the rumours of the day that some unbecoming scene had taken place at Hampton, or Norfolk, between some officers belonging to the *Africaine* frigate and some of the inhabitants, and that it took its rise in the indiscretion of the former ; that no attention to the circumstance having been called for, and no inquiry having been made, the truth of the case is unknown ; but that it was never supposed that Mr. Jackson himself, who was on board the frigate, had been personally insulted, nor is it yet understood in what way he supposes that he was so.

I am authorized to add, that any complaint or representation on the subject would instantly have received every proper attention.

The other communication (of which the substance was soon afterwards published to the American people in the form of a circular letter from Mr. Jackson to the British consuls in the United States) seems to have been intended as a justification of his conduct, in that part of his correspondence which had given umbrage to the American government. This paper (bearing date the 13th of November,) is not very explicit; but it would appear to be calculated to give rather a new form to the statements which Mr. Jackson had suffered the government of the United States to view in another light, until it had no choice but to act upon the obvious and natural interpretation of them sanctioned by himself.

It was never objected to Mr. Jackson (as this paper seems to suggest) that he had stated, that the three propositions in Mr. Erskine's original instructions were submitted to Mr. Smith by that gentleman; or that he had stated it as made known to him by Mr. Canning, that the instruction to Mr. Erskine, containing those three conditions, was the only one from which his authority was derived for the conclusion of an arrangement on the matter to which it related.

The objection was, that he had ascribed to the American government a knowledge that the propositions submitted to its consideration by Mr. Erskine were indispensable conditions, and that he did so, even after that knowledge had been distinctly disclaimed, and he had been made to perceive that a repetition of the allegation could not be suffered. I willingly leave your lordship to judge, whether Mr. Jackson's correspondence will bear any other construction than it in fact received, and whether, supposing it to have been erroneously construed, his letter of the 4th of November should not have corrected the mistake instead of confirming and establishing it.

As an *explanation* this paper was even worse than nothing. It had not the appearance of an attempt to rectify misapprehension. It sought to put the American government in the wrong, by assuming that what had given so much umbrage ought not to have given any. It imported reproach rather than explanation. It kept out of sight

the real offence, and introducing a new and insufficient one in its place, seemed to disclose no other wish than to withdraw from the government of the United States the ground upon which it had proceeded. Its apparent purpose, in a word, was to fix a charge of injustice upon the past, not to produce a beneficial effect upon the future. In this view, and in this only, it was perfectly consistent that it should announce Mr. Jackson's determination to retire to New York.

The time when this paper was presented will not have escaped your lordship's observation. It followed the demand, already mentioned, of a safeguard for "Mr. Jackson, his family, and the gentlemen attached to his mission;" a demand which cannot be regarded, especially if we look to the inducements to which it was referred, as either conciliatory or respectful. It followed, too, the letter of the 4th of November, which, had explanation been intended, ought undoubtedly to have contained it, but which, in lieu of it, contained fresh matter of provocation. It was itself followed by the publication of its own substance in another garb. On the very day of its date, when Mr. Jackson, if he meant it as an explanation, could not be justified in concluding that it would not be satisfactory, it was moulded by him into the circular address to which I have before alluded; and immediate steps appear to have been taken to give to it, in that shape, the utmost publicity. I have no wish, my lord, to make any strong remarks upon that proceeding. It will be admitted that it was a great irregularity; and that, if Mr. Jackson had been particularly anxious to close every avenue to reconciliation between the American government and himself, he could not have fallen upon a better expedient.

I have now only to add, my lord, the expression of my own most ardent wish that, out of the incident which has produced this letter, an occasion may be made to arise, which, improved as it ought to be, and I trust will be, by our respective governments, may conduct them to cordial and lasting friendship. Thus to endeavour to bring good out of evil, would be worthy of the rulers of two nations that are only in their natural position when they are engaged in offices of mutual kindness, and largely contributing to the prosperity and happiness of each other.

I have the honour to be, &c.

WM. PINKNEY.

Lord Wellesley to Mr. Pinkney. Foreign Office, March 14, 1810.

SIR,—The letter which I had the honour to receive from you, under date of the 2d of January, together with the additional paragraph received on the 24th of January, has been laid before the king.

The several conferences which I have held with you respecting the transactions to which your letter refers, have, I trust, satisfied you, that it is the sincere desire of his majesty's government, on the present occasion, to avoid any discussion which might obstruct the renewal of amicable intercourse between the two countries.

The correspondence between Mr. Jackson and Mr. Smith has been submitted to his majesty's consideration.

His majesty has commanded me to express his concern that the official communication, between his majesty's minister in America and the government of the United States, should have been interrupted before it was possible for his majesty, by any interposition of his authority, to manifest his invariable disposition to maintain the relations of amity with the United States.

I am commanded by his majesty to inform you, that I have received from Mr. Jackson the most positive assurances, that it was not his purpose to give offence to the government of the United States, by any expression contained in his letters, or by any part of his conduct.

The expressions and conduct of his majesty's minister in America having, however, appeared to the government of the United States to be exceptionable, the usual course in such cases would have been to convey, in the first instance, to his majesty, a formal complaint against his minister, and to desire such redress as might be deemed suitable to the nature of the alleged offence.

This course of proceeding would have enabled his majesty to have made such arrangements, or to have offered such seasonable explanations, as might have precluded the inconvenience, which must always arise from the suspension of official communication between friendly powers.

His majesty, however, is always disposed to pay the utmost attention to the wishes and sentiments of states in

amity with him, and he has therefore been pleased to direct the return of Mr. Jackson to England.

But his majesty has not marked, with any expression of his displeasure, the conduct of Mr. Jackson; whose integrity, zeal, and ability, have long been distinguished in his majesty's service, and who does not appear, on the present occasion, to have committed any intentional offence against the government of the United States.

I am commanded to inform you that Mr. Jackson is ordered to deliver over the charge of his majesty's affairs in America, to a person properly qualified to carry on the ordinary intercourse between the two governments, which his majesty is sincerely desirous of cultivating on the most friendly terms.

As an additional testimony of this disposition, I am authorized to assure you, that his majesty is ready to receive, with sentiments of undiminished amity and good will, any communication which the government of the United States may deem beneficial to the mutual interests of both countries, through any channel of negotiation which may appear advantageous to that government.

I request you will accept the assurances of the high consideration with which I have the honour to be, &c.

WELLESLEY.

Mr. Pinkney to Lord Wellesley. Great Cumberland Place, March 17, 1810.

MY LORD,—I have had the honour to receive your lordship's letter of the 14th inst. in reply to mine of the 2d of January; and will lose no time in transmitting it to my government.

I have the honour to be, &c.

WM. PINKNEY.

Lord Wellesley, &c. &c. &c.

Extract of a Letter from Mr. Pinkney to Mr. Smith. London, March 27, 1810.

"I HAVE the honour to enclose a copy of lord Wellesley's reply to my letter of the 7th inst. respecting the British blockades of France before the Berlin decree.

“I do not think it of such a nature as to justify an expectation, that general Armstrong will be able to make any use of it at Paris ; but I shall, nevertheless, convey to him the substance of it without delay.”

Lord Wellesley to Mr. Pinkney. Foreign Office, March 26, 1810.

SIR,—I have the honour to acknowledge the receipt of your letter of the 7th instant, requesting a further explanation of my letter of the 2d, concerning the blockades of France, instituted by Great Britain during the present war, before the 1st day of January, 1807.

The blockade, notified by Great Britain in May, 1806, has never been formally withdrawn. It cannot, therefore, be accurately stated, that the restrictions which it established, rest altogether on the order of council of the 7th of January, 1807 : they are comprehended under the more extensive restrictions of that order. No other blockade of the ports of France was instituted by Great Britain, between the 16th of May, 1806, and the 7th of January, 1807, excepting the blockade of Venice, instituted on the 27th of July, 1806, which is still in force.

I beg you to accept the assurances of high consideration, with which I have the honour to be, &c.

WELLESLEY.

Mr. Pinkney to Mr. Smith. London, April 3, 1810.

SIR,—In a short letter of the 2d instant, by Mr. John Wallace in the British packet, I had the honour to acknowledge the receipt, on the 31st of last month, (by Dr. Logan) of your letters of the 20th of January and the 16th of February, and to inform you that I had, in consequence, an appointment to meet lord Wellesley on the third.

At the interview which took place in pursuance of that appointment, I explained to lord Wellesley the nature of the powers now confided to me, and, as far as was necessary, the subjects to which they related. The result of the conversation which ensued was an understanding that we should begin with an attempt to settle the affair of the Chesapeake, and, that attempt being successful, that we

should proceed to consider next the subject of the orders in council, and lastly, the commercial and other concerns embraced by the commission of 1806 to Mr. Monroe and myself.

In conformity with this understanding, it was agreed that I should immediately follow up the conference with a note stating my authority to adjust with the British government the case of the Chesapeake; and I have accordingly prepared and sent to lord Wellesley the letter of which a copy is enclosed. I have not since heard from his lordship, to whom of course it now belongs to make proposals.

It will not I trust be thought that my letter, which is simply an official notification in civil terms of my power to receive and act upon such overtures as this government may choose to make, goes too far.

I have the honour to be, &c.

WM. PINKNEY.

P. S. April 9th. I have just received from lord Wellesley a note of which a copy is enclosed, inviting me to a conference on Thursday next, (the 12th,) doubtless on the affair of the Chesapeake.

I have the honour to be, &c.

WM. PINKNEY.

Mr. Pinkney to Lord Wellesley. Great Cumberland Place.

(Without date.)

MY LORD,—I have the honour to state to your lordship in conformity with my verbal explanations in a recent conference, that I am authorized to adjust with his majesty's government the case of the attack on the American frigate Chesapeake, in the month of June, 1807, by the British ship *the Leopard*.

It will give me sincere pleasure to communicate with your lordship on this interesting subject, in such manner as shall be thought best calculated to lead to a fair and honourable arrangement of it, preparatory to the restoration of kindness and beneficial intercourse between the two countries.

I have the honour to be, &c.

WM. PINKNEY.

Lord Wellesley to Mr. Pinkney. Foreign Office, April 9, 1810.

THE marquis Wellesley presents his compliments to Mr. Pinkney, and will be happy to have the honour of seeing him at the foreign office Thursday next, at two P. M. if that hour should suit his convenience.

Mr. Pinkney to Mr. Smith. London, April 9, 1810.

SIR,—I have, upon full reflection, thought it necessary to prepare a letter to lord Wellesley, reciting the French minister's official statement to general Armstrong, of the conditions on which the Berlin decree would be recalled, and inquiring whether there exists any objection on the part of the British government to a revocation (or to a precise declaration that they are no longer in force) of the blockade of May, 1806, and of that of Venice, especially the former. As the answer to this letter (upon which I wish to converse with lord Wellesley before I deliver it) will not probably be very prompt, I have in the mean time sent Mr. Lee to Paris with two letters to general Armstrong, of which copies are enclosed.

I have the honour to be, &c.

WM. PINKNEY.

Mr. Pinkney to General Armstrong. London, April 6, 1810.

DEAR SIR,—I do not know whether the statement contained in my letter of the 27th of last month, will enable you to obtain the recall of the Berlin decree. Certainly the inference from that statement is, that the blockade of 1806, is virtually at an end, being merged and comprehended in an order in council, issued after the date of the edict of Berlin. I am, however, about to try to obtain a formal revocation of that blockade (and of that of Venice) or at least a precise declaration that they are not in force. As it will not be possible to obtain either the one or the other very soon (*if indeed they can be obtained at all*) I will not detain Mr. Lee, but will send you another messenger

(Mr. Craig of Philadelphia) in the course of three or four weeks, with the result of my endeavours.

In the mean time such use can be made of my communication of the 27th ultimo, as you may deem advisable,

I have the honour to be, &c. &c.

WILLIAM PINKNEY.

Mr. Pinkney to Mr. Smith. London, May 2, 1810.

SIR.—I had the honour to inform you in my letter of the 9th of last month, that I had, upon full reflection, thought it necessary to prepare a letter to lord Wellesley, reciting the French minister's official statement to general Armstrong, of the conditions on which the Berlin decree would be recalled, and inquiring whether there exists any objection on the part of the British government to a revocation, or to a precise declaration that they are no longer in force, of the blockade of May, 1806, and of that of Venice, especially the former.

I have now the honour to transmit a copy of the letter which, in pursuance of that determination, I have just sent to lord Wellesley. I am not able to say what will be the nature of the answer to it; but if it should be satisfactory, I will lose no time in communicating it to general Armstrong.

I have the honour to be, &c.

WM. PINKNEY.

*Mr. Pinkney to Lord Wellesley. Great Cumberland Place.
April 30, 1810.*

MY LORD,—The French minister for foreign affairs, has stated in an official note to general Armstrong, the minister plenipotentiary of the United States at Paris, "that the only condition required for the revocation, by the French government, of the decree of Berlin, will be the previous revocation by the British government of her blockades of France or part of France, (such as that from the Elbe to Brest, &c.) of a date anterior to the date of the aforesaid decree."

I had supposed that the blockades of France, instituted by Great Britain before the date of the Berlin decree.

were already withdrawn, virtually, though not formally, by reason of the restrictions which they established having been provided for and comprehended in certain orders in council issued after the date of that decree; and your lordship's letter to me of the 26th of last month certainly seems to confirm that supposition, with regard to the blockade of May, 1806; although it proves it to be erroneous, with regard to the only other blockade which falls within the description of the French minister's communication, namely, the blockade of Venice, established in July of the same year.

As I am anxious to neglect nothing which may have a tendency to produce the repeal of the Berlin decree, and of such other decrees and orders as the government of the United States has from time to time complained of, I beg to inquire of your lordship, with a view to the terms of the above mentioned note to general Armstrong, whether there exists any objection on the part of his majesty's government, to a revocation (or to a declaration that they are no longer in force) of the blockades in question, especially that of May, 1806?

I have the honour to be, &c. &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith. London, May 3, 1810.

SIR,—I enclose a copy of a letter which I am about to send to lord Wellesley, concerning the forgery, in England, of American ships' papers for the purpose of giving to English vessels the character of American bottoms.

In conformity with your letter of the 3d of November last, which came to hand on the 10th of January, I mentioned the subject to lord Wellesley as soon as I thought it expedient to do so. He gave no opinion upon it; but when I observed that it would perhaps be better to lay the matter before him at once in writing, he expressed his approbation of that course. As there is nothing in the subject itself or in your letter to forbid it, I shall send him my paper to-day or to-morrow.

I have the honour to be, &c. &c.

WM. PINKNEY.

*Mr. Pinkney to Lord Wellesley. Great Cumberland Place,
May 3, 1810.*

MY LORD,—I have the honour to call your lordship's attention, in pursuance of the instructions of my government, to a practice which has for some time past prevailed in this country, of forging American ships' papers for the purpose of giving to English vessels the character of American bottoms.

It appears from various sources of information, that these fabrications are carried to a great extent, particularly in London, and that the fraudulent papers are purchased as a regular article of traffick, and used in numerous instances, so as to bring into suspicion the genuine documents on which the safety of American commerce depends, and to subject that commerce to serious vexation and loss.

I am confident, my lord, that it is only necessary to suggest to his majesty's government the existence of these abuses, so injurious to the United States and so pernicious in their general tendency, to induce it to cause immediate inquiry to be made with a view to an efficacious remedy. I have therefore only to add, that I am in possession of some papers which throw considerable light on this subject, and which (with such other information as I have obtained or may obtain) I shall be happy to communicate to your lordship whenever your lordship thinks proper.

I have the honour to be, &c. &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith. London, May 18, 1810.

SIR,—I have the honour to enclose a copy of a communication made to me on the 14th instant by lord Wellesley, concerning a partial relaxation of the blockade, notified some time ago, of the coast and ports of Spain between Gijon and the French territory.

I have the honour to be, &c. &c.

WM. PINKNEY.

Lord Wellesley to Mr. Pinkney. Foreign Office, May 14, 1810.

THE undersigned, his majesty's principal secretary of state for foreign affairs, has received his majesty's commands to inform Mr. Pinkney, that the king has judged it expedient to signify his orders to the lords commissioners of the admiralty, to give the necessary directions to the officers employed in the blockade of the coast and ports of Spain, from Gijon to the French territory, that they permit, notwithstanding the said blockade, Spanish or neutral vessels laden with cargoes the produce of Spain only, to sail from any port included in the limits of the said blockade, subject, nevertheless, (as to the ports to which they trade) to the restrictions of his majesty's orders in council of the 26th of April, 1809, and of the 7th of January, 1807.

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

WELLESLEY.

Extract of a Letter from Mr. Pinkney to Mr. Smith. London, June 13, 1810.

"I HAVE not yet obtained from lord Wellesley an answer to my letter of the 30th of April, concerning the British blockades of France before the date of the Berlin decree. In a short conference on Sunday last, (the 10th instant) I pressed for a prompt and favourable reply, and shall, perhaps, receive it in the course of a few days. I had requested an interview on this subject on the 18th of last month, in consequence of a letter brought by Mr. Lee from general Armstrong, dated 2d of May; but the state of lord Wellesley's health prevented its taking place sooner than the 10th instant.

"I have sent Mr. Craig, (a young gentleman of Philadelphia) as a messenger to general Armstrong. He carries a newspaper copy of the late act of Congress, respecting commercial intercourse.

"I have prepared an official letter to you on the affair of the Chesapeake; but as Mr. Erving leaves town for Liverpool in the morning, there is not time to copy it. It shall

be forwarded, however, by Mr. Morier, who is about to sail in the British frigate *Venus*, for New York ; or sent to Liverpool to the care of Mr. Maury. In the mean time it will be sufficient to state to you, that I am expecting every day lord Wellesley's written overture in that affair, and that in our conferences, which resulted in an understanding that he would make such an overture, no objection was made by him to an engagement to restore the men to the ship from which they were forcibly taken, without the offensive reservation prescribed to Mr. Rose and Mr. Erskine, and contained in Mr. Jackson's project ; to offer a suitable provision, without any reservation, for the families of the sufferers, as a part of the terms of satisfaction ; to forbear all reference, in the papers leading to or containing the arrangement to the President's proclamation, or to any thing connected with it ; to adopt in those papers a style and manner not only respectful, but kind to our government ; to recite in them (as in Mr. Erskine's letter to you in April, 1809) that admiral Berkeley had been promptly disavowed, and as a mark of his Britannick majesty's displeasure, recalled from an important command. I have met on this occasion with nothing of a discouraging nature, except on the impracticable point of the trial and punishment of the offending officer. On that point it is impossible to prevail ; but there will be no objection to my declaring, in a reply to the overture, the expectation of the American government, that the officer shall be tried and punished, or to a rejoinder, (if I wish it) on the part of lord Wellesley, suggesting in a friendly way the reasons for not fulfilling that expectation."

Mr. Pinkney to Mr. Smith. London, June 26, 1810.

SIR,—Lord Wellesley's answer to my letter of the 30th of April, concerning the British blockades of France anterior to the Berlin decree, being still delayed, I have sent him the letter (of the 23d instant,) of which a copy is now transmitted.

I have the honour to be, &c.

WM. PINKNEY.

*Mr. Pinkney to Lord Wellesley. Great Cumberland Place,
June 23, 1810.*

MY LORD,—I beg to recall your lordship's attention to the subject of the letter which I had the honour to address to you on the 30th of April last, concerning the British blockades of France anterior to the Berlin decree.

My government expects from me a communication on that subject, and your lordship will I am sure take pleasure in enabling me, with as little delay as possible, to fulfil that expectation in a satisfactory manner.

I feel confident that after the declaration of France, which I had the honour to state to your lordship in that letter, and to mention in conference before and since its date, there will be no difficulty on the part of his majesty's government in revoking these blockades, or declaring that they are no longer in existence.

I have the honour to be, &c. &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith. London, July 1, 1810.

SIR,—I have this day had the honour to receive your letter of the 23d and 22d of May by Mr. Parish, and have sent a note to lord Wellesley requesting an interview. He is out of town, but will return to-night or in the morning. The instructions contained in your letter concerning the inequality, supposed to be intended by this government in the state of our diplomatic relations, shall be executed with the discretion which undoubtedly they require; and I am persuaded that the result will be perfectly satisfactory to the President. In the mean time I think I can undertake to assure you, that no change has taken place in the opinion of lord Wellesley, as announced in my private letter to you of the 4th of January, that a minister plenipotentiary of rank should be sent to the United States. Certainly, no idea has been entertained here of a permanent or long continued charge d'affaires. It could only be intended to send one in the first instance. And I have reason to be confident, that for some time past, it has been in agitation to appoint a minister plenipotentiary without

delay, that lord Wellesley has in fact thought of and mentioned a person, and that Mr. Morier's departure has been put off in consequence.

In the case of the *Chesapeake*, I have already stated to you that I think there will be no difficulty, if the farther punishment of Berkeley is not made on our part a *sine qua non*. Your instructions are very clear that this is not to be peremptorily insisted on.

I have nothing to add to my communication of the 26th ultimo concerning the British blockades of France before the Berlin decree, except that I mean to press lord Wellesley on that subject at our next interview as I did at our last. I shall not fail at the same time to draw his attention to the orders in council and the intercourse act.

I need scarcely say that if events should make it proper for me, in obedience to the President's commands, to return to America, (leaving a charge d'affaires) I shall lose no time in doing so.

I have the honour to be, &c. &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith. London, July 23, 1810.

SIR,—I followed up the conversation with lord Wellesley, mentioned in my letter of the 6th instant, with a short note, of which a copy is enclosed, requesting information concerning the intention of this government to send a minister plenipotentiary, without delay, to the United States, as the successor of Mr. Jackson.

Reflection seems to have suggested to lord Wellesley some objections which did not occur in the course of our conference, to giving this information in an official manner.

I was aware of this on Saturday last; but was not willing to forego a written communication on a matter which had taken a character of some delicacy and importance.

Lord Wellesley has endeavoured to avoid his own difficulty and mine, by sending me the letter (marked "*private*") of which I have now the honour to transmit a copy.

As this letter is in conformity with his verbal assurances in conference, and appears to leave no reasonable doubt

upon the point to which it relates, I do not suppose that I can properly undertake to question its sufficiency, either by pressing for a more formal communication, or by taking the step which your instructions, of the 23d of May, in certain circumstances prescribe to me.

I still believe that the affair of the Chesapeake will very soon be brought to a conclusion.

I have the honour to acknowledge the receipt (on the 21st instant, by Mr. Henry Izard) of your letters of the 13th and 16th of last month, and I take this opportunity to thank you for the private letter of the 5th ultimo, received at the same time.

I have the honour to be, &c. &c.

WM. PINKNEY.

*Mr. Pinkney to Lord Wellesley. Great Cumberland Place,
July 7, 1810.*

MY LORD,—In pursuance of the conversation which I had the honour to hold with your lordship on the 6th inst. I take the liberty to request information, which I am sure will be readily given, concerning the intention of his majesty's government to send a minister plenipotentiary to the United States, as the successor of Mr. Jackson.

I have no doubt that it is intended to send such a successor without delay, as one of the means of restoring and maintaining the friendly relations of the two countries; but I shall, nevertheless, be glad to be authorized by your lordship to make a communication to that effect to my government.

I have the honour to be, &c.

WM. PINKNEY.

The Most Noble the Marquis
Wellesley, &c. &c. &c.

PRIVATE.

*Lord Wellesley's Reply to the foregoing. Apsley House,
July 22, 1810.*

SIR,—I think it may be difficult to enter upon the subject of your last note, (respecting the diplomatic rank of our minister in America) in any official form.

But I have no difficulty in assuring you that it is my intention immediately to recommend the appointment of an envoy extraordinary and minister plenipotentiary from the king to the United States.

I have the honour to be, &c.

WELLESLEY.

Wm. Pinkney, Esq. &c. &c. &c.

Mr. Pinkney to Mr. Smith. London, Aug. 14, 1810.

SIR,—As lord Wellesley still withheld his long expected answer to my note of the 30th of April, respecting the British blockades anterior to the Berlin decree, and his written overture in the case of the Chesapeake, I sent him on the 8th instant a letter, of which a copy is enclosed. No importunity had before been spared which it became me to use.

I need not trouble you with comments on the obvious unwillingness of this government to touch the first mentioned subject, or any thing connected with its principles and practice respecting blockades, or with the system of the orders in council. Justice and policy both invite it to give the declaration which I have required ; and certainly nothing has been omitted on my part to induce it to take that course. I fear, however, that the declaration will be declined, unless indeed lord Wellesley should continue to evade my application by returning no answer to it ; a new practice, I think, which, little to be commended as it is, must, I presume, if persisted in here, be reciprocated in America.

It is truly surprising that in the case of the Chesapeake there should be the same backwardness. I can conjecture no motive for this hesitation to propose, in writing, terms arranged in conference between lord Wellesley and my-

self in an affair which it is the manifest interest of England to settle as soon as possible. It is now almost six weeks since lord Wellesley last assured me (as he had before more than once assured me) that he would put me in possession of his formal overture in this case *immediately*. He knows that you have been made officially acquainted with that assurance; for I thought it advisable to submit to his perusal, before it was transmitted (for the purpose principally of avoiding misunderstandings) my short letter to you of the 6th of last month, which states that "in the business of the Chesapeake he will write to me in a few days," and further, that in that business "I do not expect any difficulty."

There can be no misconception as to the *terms* to be offered; for, besides that they were stated with great precision in the conference alluded to in my letter to you of the 6th ultimo, as well as in several antecedent interviews, I wrote lord Wellesley the day after that conference a *private* note of which a copy is now transmitted, enclosing a memorandum in pencil of the terms which (exclusive of any further mark of displeasure to admiral Berkeley, very decidedly discouraged by lord Wellesley) had been spoken of in our different conversations as fit to be proposed. I do not find that I retained any copy of the memorandum in pencil; but the terms (agreeing in substance with those to which I informed you in my letter of the 13th of June last, lord Wellesley had no objection) were to this effect.

1. The overture to contain such a recital or statement, as is found in Mr. Erskine's letter to you of the 17th of April, 1809, of the prompt disavowal by his Britannick majesty of the unauthorized act of his naval officer, whose recall, as a mark of the king's displeasure, from a highly important and honourable command, immediately ensued.

2. To offer, *without any reservation*, the restoration of the men to the ship from which they were forcibly taken.

3. To offer, *without any reservation*, and as a part of the terms of the international adjustment, a suitable pecuniary provision for the families of the persons slain in the attack, and for the wounded survivors.

It was moreover understood, that the paper proffering these terms would not contain the allusions which have heretofore occasioned embarrassment; that the whole

affair would be made to take the most friendly character, and that I should be at liberty to express in my reply to the overture, if I thought fit, the expectation of my government as to the further punishment of admiral Berkeley.

I ought to add that, in all my conversations with lord Wellesley on the case of the Chesapeake, he has shown not only a disposition but a wish to accommodate it, and that I am therefore the more astonished at the delay which has taken place.

In a few days I intend to renew my efforts to bring this matter to a conclusion, and to obtain an answer of some sort to my letter of the 30th of April. I am sufficiently inclined to present a strong paper upon both subjects, but in the actual posture of affairs, and in the absence of such instructions from you as would countenance such a step, I think it my duty to forbear a little longer.

It is not impossible that lord Wellesley's backwardness to close the case of the Chesapeake with me, may arise from a desire that it should be adjusted in America through the new minister. If this were so, however, he could have no inducement to conceal it from me, since he is aware that I have always entertained the same desire. When I see him I will advert to this.

I am not yet able to say positively who the new minister will be. Lord _____ and some others are spoken of. Lord Wellesley has given me no other written information on the subject than is contained in his letter of the 22d ultimo, already communicated to you. His verbal information has been to the same effect, with this addition, that he retained his opinion (mentioned in my unofficial letter to you of the 4th of January last) that the minister to America ought to be a man of rank. As far as may be prudent I shall not fail to do all in my power to expedite the appointment.

The letter from general Armstrong, to which my letter of the 8th instant to lord Wellesley alludes, is dated the 24th of July; and expresses his wish that the declaration of the British government concerning the blockades may be obtained and forwarded without delay.

I have the honour to be, &c.

WM. PINKNEY.

The Hon. Robert Smith, &c. &c. &c.

Mr. Pinkney to Mr. Smith. London, August 18, 1810.

SIR,—I enclose the Times newspaper of this morning, containing a copy of a French decree of the 5th instant, and of a letter of the same date, from the French minister for foreign affairs to general Armstrong. The last is a most important paper, of which I hope to receive without delay an official communication.

I have the honour to be, &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith. London, Aug. 21, 1810.

SIR,—I have just received a communication from general Armstrong, dated the 6th instant, announcing the absolute revocation of the Berlin and Milan decrees, and have, in consequence, sent a note to lord Wellesley, requesting to see him. Lord Wellesley is out of town, but will, it is said, return to-night or to-morrow morning.

General Armstrong has not transmitted any copy of the official notice mentioned in his letter; but I presume it is the same with that published in the *Moniteur* of the 9th, of which I am in possession, and with which the quotation in general Armstrong's letter agrees.

I do not know whether his construction of that document will be thought here to be liable to any objections. I think it impossible, however, that upon any interpretation of it this government can hesitate to repeal its orders in council.

A copy of general Armstrong's letter to me is enclosed.

I have the honour to be, &c.

WM. PINKNEY.

*Copy of General Armstrong's Letter to Mr. Pinkney.
Paris, August 6, 1810.*

SIR,—I have the honour to inform you that his majesty the emperor and king, has been pleased to revoke his decrees of Berlin and Milan. Of this interesting fact, I had this morning a written and official notice, in the following words, viz.

“Je suis autorisé à vous déclarer, monsieur, que les décrets de Berlin et de Milan sont révoqués, et, qu’à dater du 1er Novembre, ils cesseront d’avoir leur effet.”*

Sincerely hoping that you may be able to turn this circumstance to some useful account, I forward it per triplicate, and am, sir, with very great respect, &c. &c.

JOHN ARMSTRONG.

General Armstrong to Mr. Pinkney. Paris, Aug. 7, 1810.

SIR,—I hazarded a line or two yesterday by the way of Morlaix, merely to inform you that the imperial decrees of Berlin and Milan were at last given up. I now send you by a more direct conveyance a copy of the duke of Cadore’s letter to me of the 5th instant, and am, sir, with very great respect, &c. &c.

JOHN ARMSTRONG.

*Extract of a Letter from Mr. Pinkney to Mr. Smith.
London, Friday, Aug. 24, 1810.*

“I TRANSMIT a copy of my answer formed upon your recent instructions, to lord Wellesley’s notification of the blockade of Corfou. Is it not worthy of a reflection, whether an attempt to blockade an entire sea, like the Adriatick, should not be protested against, whatever may be the force employed in closing the passage to it?”

*Mr. Pinkney to Lord Wellesley. Great Cumberland Place,
Aug. 21, 1810.*

MY LORD,—I have had the honour to receive your official note of the 18th instant, communicating the resolution of the British government to establish a blockade of the canal of Corfou, and shall not fail to transmit a copy of it, with as little delay as possible, to the Secretary of State of the United States.

* *Translation.* I am authorized to declare to you, sir, that the decrees of Berlin and Milan are revoked, and that after the 1st of November, they will cease to have effect.

In the mean time I take the liberty, in pursuance of the sentiments of the President heretofore signified to me, to observe to your lordship that, as a blockade essentially implies a force on the spot for the purpose, and as the notification required in the case must be a warning to neutral traders of the fact that a blockade exists, the communication which your lordship has made to me, derives its title to the acknowledgments of the United States from the supposition that it was meant as a friendly premonition, which, though imposing of itself no legal restraint on neutrals, nor inducing any penal consequences, might usefully influence the course of their mercantile expeditions. In this sense the communication will be received by the President as a mark of that friendly attention which ought, in all cases, to be reciprocally maintained, and in this sense the President will be the more disposed to regard the communication, as a different one would contradict the definition of a blockade, and of the requisite notification thereof, contained in the orders of the British government to commodore Hood and the judges of the vice admiralty courts, as communicated to the American government by Mr. Merry, on the 12th of April, 1804.

I have the honour to be, &c. &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith. London, Aug. 29, 1810.

SIR,—I dined yesterday with lord Wellesley, and found that he had only returned to town in the morning. He still complained of indisposition ; but it certainly could not be considered as unfitting him for business. In a short conversation before dinner he told me that my note respecting the Berlin and Milan decrees should be mentioned to his colleagues to-day, and that I should have an immediate answer ; that the affair of the Chesapeake “ would be settled to my satisfaction ;” that he believed he should recommend to the king the appointment of a minister plenipotentiary to the United States, either this week or the next ; that he had two persons in his eye, (both men of high rank) but that he could not with propriety name them to me at present.

As far as the opportunity permitted I urged promptitude on all these subjects as indispensable, and expressed my confidence that they would be disposed of in season for the approaching meeting of Congress.

You perceive that notwithstanding past promises, nothing has yet been done ; and that there is no security that we shall have any thing but promises. I am truly disgusted with this, and would, if I followed my own inclination, put a speedy end to it. It is better, however, to do nothing of an irritating nature until this government has had full time for acting upon my note of the 25th. Even if it should decline to repeal the orders in council (which I am told is quite possible) a moderate course on my part will have the recommendation of putting it more clearly in the wrong. If it should decline to repeal, the President may be assured that I will not fail to present such a paper as conduct so extraordinary will demand, and, if further delays are affected, that I will remonstrate in very decided terms.

I have the honour to be, &c. &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith. London, Sept. 3, 1810.

SIR,—Lord Wellesley sent me his answer yesterday to my note of the 25th ultimo, respecting the Berlin and Milan decrees. I hasten to transmit a copy of it. A copy shall be sent, without delay, to general Armstrong.

I have the honour to be, &c.

WM. PINKNEY.

Mr. Pinkney to Lord Wellesley. Great Cumberland Place, Aug. 25, 1810.

MY LORD,—I have the honour to state to your lordship, that I have received from general Armstrong, minister plenipotentiary of the United States at Paris, a letter bearing date the 6th instant, in which he informs me that the government of France has revoked the decrees of Berlin and Milan, and that he has received a written and official notice of that fact in the following words : “ Je suis autorisé à vous déclarer, monsieur, que les décrets de Berlin et de

Milan sont revoques, et, qu'a dater du 1er Novembre, ils cesseront d'avoir leur effet."

I take for granted that the revocation of the British orders in council of January and November, 1807, and April, 1809, and of all other orders, dependent upon, analogous to, or in execution of them, will follow of course; and I shall hope to be enabled by your lordship, with as little delay as possible, to announce to my government that such revocation has taken place.

I have the honour, &c.

WM. PINKNEY,

The Most Noble the Marquis
Wellesley, &c. &c. &c.

*Lord Wellesley to Mr. Pinkney—in reply to the foregoing.
Foreign Office, August 31, 1810.*

SIR,—I have the honour to acknowledge the receipt of your letter under date the 25th inst.

On the 23d of February, 1808, his majesty's minister in America, declared to the government of the United States—"his majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity, and his readiness to abandon the system which had been forced upon him, whenever the enemy should retract the principles which had rendered it necessary."

I am commanded by his majesty to repeat that declaration, and to assure you that whenever the repeal of the French decrees shall have actually taken effect, and the commerce of neutral nations shall have been restored to the condition in which it stood previously to the promulgation of those decrees, his majesty will feel the highest satisfaction in relinquishing a system which the conduct of the enemy compelled him to adopt.

I have the honour to be, &c.

WELLESLEY.

Wm. Pinkney, Esq.

*Mr. Pinkney to General Armstrong. London, September 3,
1810.*

SIR,—I received yesterday from lord Wellesley an answer dated the 31st of last month, to my note of the 25th, in which I communicated to him the purport of your letter to me of the 6th, respecting the Berlin and Milan decrees; and I hasten to put you in possession (by a special messenger) of a copy of each of those papers, to be used according to your discretion.

It is extremely desirable that I should have, without loss of time, the benefit of such reflections upon this answer as you may be disposed to favour me with, and of such information, calculated to regulate my course with regard to it, as your local position may enable you to furnish.

Your letters of the 6th and 7th ultimo concur in representing (with perfect propriety I think) that the revocation of the Berlin and Milan decrees is to take effect *absolutely* after the 1st of November, and I have so put it to the British government. You will let me know if any error (which I do not in the least suspect) has been discovered in this representation, or if it is necessary that the subject should be brought before this government in any other form than that which, looking to your representation, I have chosen.

You will perceive that the pledge contained in lord Wellesley's answer is referred to the period when the repeal of the French edicts shall have actually taken effect, and the commerce of neutral nations shall have been restored to the condition in which those edicts found it. In case there is nothing equivocal in these last expressions, the pledge is, I presume, sufficient for the present, if the recall of the French decrees does not depend on a condition precedent as some have supposed. If, on the other hand, it is understood that before the French repeal is to take effect, namely, before the 1st or 2d of November, Great Britain must revoke her orders in council, so that the orders shall cease to operate at the same moment with the decrees; or if it is understood that the British blockades, to which France objects (that of May, 1806, for example) must be recalled, or declared not to be in force, before the same period, then undoubtedly the pledge is nothing.

If the pledge is sufficient, we have only to let the matter rest until November. If it is insufficient, I cannot be too soon employed in taking a new course. I ought to mention, however, that I am now preparing a note to lord Wellesley, to be presented in a few days, concerning the *blockades*. This step is proper, and I think indispensable, whether the revocation of the decrees of France depends upon those blockades being put out of the way or not.

Begging you to let me hear from you as soon as convenient, I am, sir, &c.

WM. PINKNEY.

His Excellency Gen. Armstrong, &c. &c. &c.

Mr. Pinkney to Mr. Smith. London, September 4, 1810.

SIR,—I have just received your letters by lieutenant Spence. Their dates are as follows: 17th July, 1810; 5th July, (original and duplicate;) 2d July (original and duplicate;) 30th June (original and duplicate;) 16th June (duplicate; the original had been received before;) 13th June (duplicate; the original had already been received.)

I have only time to add, that the repeal of the French decrees (as communicated to me by general Armstrong) and the reply of lord Wellesley of the 31st ult. to my communication on that subject, do not appear to me to take away the necessity of executing the instructions contained in your letters of the 2d and 5th of July relative to the British blockades, although they may affect the manner of executing those instructions. The note which I intend to present on this occasion will be ready in a day or two, and shall be sent in immediately.

I have the honour to be, &c. &c.

WM. PINKNEY.

P. S. Lord Wellesley sent me a message yesterday, through Mr. Hamilton, that, if I still wished to see him on the subject of my late communication, he would receive me to day. I replied that I had no wish to see him on that subject; but that it might be necessary to write him a note upon it hereafter. I mean to confine myself as much as possible to written intercourse with lord Wellesley.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith. London, September 7, 1810.

SIR,—It has been supposed here that the notification of a blockade of “the canal of Corfou,” on the 18th of last month, was intended to close the Adriatick, and the English newspapers, as you will have perceived, so represented it. In my letter to you of the 20th ultimo, communicating a copy of that notification, I have adopted this construction, which now appears to be erroneous. The “canal,” to which the notification is now understood to apply, is the narrow passage to the eastward of Corfou.

I have the honour to be, &c. &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith. London, September 15, 1810.

SIR,—I send enclosed a copy of a second letter which I have written to lord Wellesley, respecting the stoppage of American vessels attempting to pass the Sound; together with a copy of the protest of the master of the American ship “Alert,” mentioned in that letter, which is well entitled to your attention.

I have the honour to be, &c. &c.

WM. PINKNEY.

*Mr. Pinkney to Lord Wellesley. Great Cumberland Place.
September 15, 1810.*

MY LORD,—In my note of the 1st instant, I had the honour to inform your lordship, that it had been stated to me in a letter from Gottenburgh, that in consequence of some misconception of the effect of the order for establishing a blockade of Elsinore in May last, American vessels had recently been prevented from passing the Sound by the English naval force in that quarter, and I requested that if this statement was correct, such explanations might be transmitted to the British commander as might at least confine the blockade in question to the port against which it had been professedly instituted.

As I have not received any answer to that note, and consequently do not know whether any order has been

given to remove the interruption which it mentions, I feel it to be necessary to lay before your lordship the enclosed original protest of the master of the American ship "Alert," which appears to establish the existence of that interruption in a form as exceptionable as it could possibly assume.

Whatever may be the ground upon which sir James Saumarez has thought fit to issue his orders to close the passage of the Sound to American vessels returning in the prosecution of a lawful trade to the United States, or proceeding in a contrary direction, your lordship will, I am persuaded, think with me that my government has a fair claim to be made acquainted, either through me or through such other channel as your lordship may deem more proper, with the intentions of the British government on the subject.

Before I conclude this letter I must call your lordship's attention to the particular circumstances of the case which has mainly produced it, and to the redress which those circumstances plainly require.

The "Alert" has been seized and sent to England by the "Africa" for *salvage*. The peril from which she was saved, if she was saved from any peril, was created by the injustice of the capturing vessel in turning her from the regular course of her homeward voyage.

That the commander of the "Africa," or those under whom he acted, should be responsible to the utmost for the loss occasioned by that injustice, seems to be perfectly reasonable; but it is difficult to imagine in what way he can expect to derive from it a right to inflame the loss for his own advantage. I trust that the attempt will be repressed in a suitable manner, and that, in place of salvage to be paid by the injured neutral, compensation will in some mode or other be awarded to him for the damages he has been made to sustain.

The impressment on board the "Alert," of four American seamen by the "Africa," cannot be passed unnoticed. This abuse could not fail to be interesting under any circumstances; but on this occasion (supposing the enclosed narrative to be true,) it is not only characterised by an utter disregard of the rights of the American government, and by the oppression of its citizens, but is prac-

tised under a show of friendly protection, and aggravated by every practical wrong which could well be associated with it.

I have the honour to be, &c. &c.

WM. PINKNEY.

*Mr. Pinkney to Lord Wellesley. Great Cumberland Place,
September 21, 1810.*

MY LORD,—On the 30th of April last, I had the honour to address a note to your lordship, in which, upon the inducements which it stated, I took the liberty to inquire, whether there was any objection, on the part of his majesty's government, to a revocation, or to a declaration that they were no longer in force, of the British blockades of France of a date anterior to the Berlin decree.

In a second note of the 23d of June, I had the honour to recall your lordship's attention to that inquiry, and to add, that my government expected from me a communication upon it. And on the 8th of August, it was again brought to your lordship's recollection, in the same mode. It was moreover mentioned in several conversations after the delivery of my first note, which had, in fact, been preceded by verbal explanations on my part, as well as by an abortive correspondence in writing, to which some of those explanations were preparatory.

If I had been so fortunate as to obtain for my hitherto unanswered inquiry, the notice which I had flattered myself it might receive, and to which I certainly thought it was recommended by the plainest considerations of policy and justice, it would not, perhaps, have been necessary for me to trouble your lordship with this letter, the purpose of which is, in very few words, to remind his majesty's government, in pursuance of my instructions, of the sentiments and expectations of the government of the United States, respecting such blockades as that which my inquiry principally regarded.

Those sentiments and expectations are so well explained in two letters, from Mr. Secretary Madison, of the 27th October, 1803, to Mr. Thornton, and of the 3d of June, 1806, to Mr. Merry, that very little more is required, in the execution of my instructions on this occasion, than that

I should refer your lordship to the copies of those letters which are herewith transmitted.

Your lordship will perceive, that the strong and conclusive objections, in law and reason, to be found in those papers, (especially in the first, which was occasioned by a communication from the British consul, at New York, of a notice from commodore Hood, in July, 1803, that the islands of Martinique and Guadaloupe were, and for some time had been blockaded) apply to several blockades which Great Britain has lately pretended to establish; but in a particular manner to that of May, 1806, (from the Elbe to Brest inclusive;) to that in the spring of 1808, of the whole island of Zealand, and to that in March, 1809, of the isles of Mauritius and Bourbon.

The government of the United States can discover no just foundation for these and other similar attempts to blockade entire coasts, by notifications with which the fact has no correspondence. It views them as unwarrantable prohibitions of intercourse, rather than regular blockades; and as resembling, in all their essential qualities, the extraordinary decrees and orders, which, for the last four years, have nearly obliterated every trace of the publick law of the world, and discouraged, by menaces of hostile interruption, and pursued with seizure and confiscation, the fairest and most innocent trade of neutral merchants.

It may now be hoped that those decrees and orders are about to disappear for ever; and I think I may presume, as my government expects, that no blockade like that of May, 1806, will survive them.

Your lordship has informed me, in a recent note, that it is "his majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity." And I cannot suppose that this freedom is understood to be consistent with vast constructive blockades, which may be so expanded at pleasure as, without the aid of any new device, to oppress and annihilate every trade but that which England thinks fit to license. It is not, I am sure, to *such* freedom that your lordship can be thought to allude. I am the more inclined to be confident on this point, because I have now before me a well known official exposition, conceived in terms the most exact, of the British doctrine of blockade as it stood in 1804, con-

tained in the reply of Mr. Merry, his majesty's minister in America, to the very able remonstrance above mentioned, from Mr. Madison to Mr. Thornton.

In that reply, (of the 12th of April, 1804) it is formally announced to the government of the United States, "by his majesty's command, signified to Mr. Merry, by the principal secretary of state for foreign affairs," that for 'redressing the grievance complained of' by the American government, orders had been sent to commodore Hood (and the necessary directions given to the vice admiralty courts in the West Indies and America) not to consider any blockade of the islands of Martinique and Guadaloupe as existing, unless in respect of particular ports which might be actually invested; and then not to capture vessels bound to such ports, unless they should previously have been warned not to enter them."

It is natural to conclude that, though the "grievance," which this frank communication condemns, has been since so often repeated, as almost to make us lose sight of the rule in the multitude of its violations, your lordship could not speak of the restoration of the just freedom of commerce as an event desired by Great Britain, without some reference to the neglected doctrine of this paper, and without some idea of reviving it.

With regard to the blockade of May, 1806, I regret that I have failed to obtain an admission, apparently warranted by facts and invited by circumstances, that it is not in force.

Your lordship's answers to my letters of the 15th of February, and 7th of March last, appear to justify the opinion, that this blockade sunk into the orders in council of 1807, with which it was perfectly congenial. It can scarcely be said that, since the promulgation of those orders, there has been even a show of maintaining it, as an actual blockade, by a stationary force, adequate or inadequate, distributed with that view along the immense line of coast which it affected to embrace. And, if it has not been constantly so maintained, nor even attempted to be maintained, as an actual blockade, but has yielded its functions since 1807, to orders in council, neither being, nor professing to be actual blockades, it may, I imagine, be very safely asserted that it exists no longer. But as this conclusion has not been adopted, but has rather been

resisted by your lordship, it is my duty, in transmitting the enclosed copy of an act of the Congress of the United States, passed on the 1st of May, 1810, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," to state to your lordship that an annulment of the blockade of May, 1806, is considered by the President to be as indispensable, in the view of that act, as the revocation of the British orders in council.

I have the honour to be, &c.

WM. PINKNEY.

The Most Noble the Marquis
Wellesley, &c. &c. &c.

Mr. Pinkney to Mr. Smith. London, Sept. 28, 1810.

SIR,—I have already sent you a copy of lord Wellesley's reply to that part of my letter of the 15th inst. which particularly respected the case of the *Alert*. The amount of that reply was, that government could not interfere, and that the case must be left to the court of admiralty.

I now transmit his answer to that part of my letter which regarded the effect of the blockade of Elsinore (as it was interpreted by sir James Saumarez) on the passage of the Sound; from which it appears that it is not yet intended to close that passage.

No notice has been taken of the residue of my letter concerning the four American seamen taken from the *Alert*.

As I have transmitted you a copy of lord Wellesley's reply to my application for the release of the *Mary*, from which it was to be inferred that she would be immediately released, I ought now to mention that so far from being released, she is to be forthwith proceeded against as prize! These things require a large stock of patience.

I have the honour to be, &c.

WM. PINKNEY.

Lord Wellesley to Mr. Pinkney. Foreign Office, Sept. 26, 1810.

THE marquis Wellesley has the honour to acquaint Mr. Pinkney, in answer to that part of his letter of the 15th instant, relating to an alleged misconception of the order of council for the blockade of Elsinore, that it is the intention of his majesty's government, that that blockade should be strictly confined to the port of Elsinore, and that it does not affect any vessels professedly bound up the Sound, unless it should appear from their papers that they are bound to Elsinore.

The Marquis Wellesley begs to renew to Mr. Pinkney the assurances of his high consideration.

William Pinkney, Esq. &c. &c. &c.

Mr. Pinkney to Mr. Smith. London, Oct. 3, 1810.

SIR,—Lord Wellesley's communication concerning the passage of the Sound was supposed by a merchant here, to whom I showed it, to be ambiguous, by reason of the expressions "bound up the Sound," &c.

The ambiguity has, however, been removed (if indeed there was any) by a note which I have just received from the foreign office in answer to one from me.

It says, that "no vessels will be subject to the restrictions of the blockade of Elsinore, but such as may be going to that port, in whatever direction they may be passing the Sound." It says further, that "the equivocal in the original communication was certainly not intentional."

I have the honour to be, &c. &c.

WM. PINKNEY.

Extract of a Letter from General Armstrong to Mr. Smith. Paris, Jan. 28, 1810.

"M. CHAMPAGNY stated, that the order given in relation to our ships, &c. &c. in Spain was a regular consequence of the system declared in his letter of the 22d of August last, and which had been promulgated throughout the United States. 'It is obvious,' he added, 'that his majesty cannot permit to his allies a commerce which he

denies to himself. This would be at once to defeat his system and oppress his subjects, by demanding from them great and useless sacrifices ; for if the system be not strictly observed every where, it cannot any where produce the effects expected from it. Still, he said, the property is only sequestered, and becomes a subject of the present negotiation.' As our remonstrances have been sufficiently frequent and free ; as this was a meeting merely of conciliation, and as the closing remark of the minister indicated rather the policy of looking forward to our rights than backward on our wrongs, I thought it most prudent to suppress the obvious answers which might have been given to his observations, and which, under other circumstances, should not have been omitted. I accordingly contented myself with expressing a hope, that our future intercourse should be a competition only of good offices."

"In conformity to the suggestions contained in your letter of the 1st of December, 1809, I demanded whether, if Great Britain revoked her blockades of a date anterior to the decree commonly called the Berlin decree, his majesty the emperor would consent to revoke the said decree ? to which the minister answered, that "the only condition required for the revocation by his majesty of the decree of Berlin, will be a previous revocation by the British government of her blockade of France, or part of France (such as that from the Elbe to Brest) of a date anterior to that of the aforesaid decree, and that if the British government would then recall the orders in council which had occasioned the decree of Milan, that decree should also be annulled. Our interview closed here, and we have had no meeting, either accidental or by rendezvous since.

*Extracts of a Letter from General Armstrong to Mr. Smith.
Paris, February 17, 1810.*

"THE note from M. Champagny, a copy of which is enclosed, was received yesterday.

"This goes by the way of England, and may not be much later in reaching you than my despatch of the 28th ult. which took the same road."

TRANSLATION.

THE undersigned has rendered an account to his majesty the emperor and king, of the conversation he has had with Mr. Armstrong, minister plenipotentiary of the United States of America. His majesty authorizes him to give the following answer :

His majesty should consider his decrees of Berlin and Milan as violating the principles of eternal justice, if they were not the compelled consequence of the British orders in council, and above all, of those of November, 1807. When England has proclaimed her sovereignty universal, by the pretension of subjecting the universe to a tax on navigation, and by extending the jurisdiction of her parliament over the industry of the world, his majesty thought that it was the duty of all independent nations to defend their sovereignty, and to declare as denationalized (denationalises) those vessels which should range themselves under the domination of England, by recognising the sovereignty which she arrogated over them.

His majesty distinguishes the search (*la visite*) from the recognition (reconnaissance) of the vessel. The recognition has no other end than to ascertain the reality of the flag. The search is an interior inquest held, although the verity of the flag be ascertained, and of which the result is either the impressment of individuals, or the confiscation of merchandise, or the application of arbitrary laws or regulations.

His majesty could place no reliance on the proceedings of the United States, who having no ground of complaint against France comprised her in their acts of exclusion, and since the month of May have forbidden the entrance of their ports to French vessels, under the penalty of confiscation. As soon as his majesty was informed of this measure, he considered himself bound to order reprisals on American vessels not only in his territory, but likewise in the countries which are under his influence. In the ports of Holland, of Spain, of Italy and of Naples, American vessels have been seized, because the Americans have seized French vessels. The Americans cannot hesitate as to the part which they are to take. They ought either to tear to pieces the act of their independence, and to become

again, as before the revolution, the subjects of England, or to take such measures as that their commerce and industry should not be tarified (tarifes) by the English, which renders them more dependent than Jamaica, which at least has its assembly of representatives and its privileges. Men without just political views, (sans politique) without honour, without energy, may allege that payment of the tribute imposed by England may be submitted to, because it is light; but why will they not perceive that the English will no sooner have obtained the admission of the principle, than they will raise the tariff in such way, that the burden at first light, becoming insupportable, it will then be necessary to fight for interest after having refused to fight for honour.

The undersigned avows with frankness, that France has every thing to gain from receiving well the Americans in her ports. Her commercial relations with neutrals are advantageous to her. She is in no way jealous of their prosperity; great, powerful and rich, she is satisfied when, by her own commerce, or by that of neutrals, her exportations give to her agriculture and her fabricks the proper development.

It is now thirty years since the United States of America founded, in the bosom of the new world, an independent country, at the price of the blood of so many immortal men, who perished on the field of battle to throw off the leaden yoke of the English monarch. These generous men were far from supposing, when they thus sacrificed their blood for the independence of America, that there would so soon be a question whether there should be imposed upon it a yoke more heavy than that which they had thrown off, by subjecting its industry to a tariff of British legislation, and to the orders in council of 1807.

If then the minister of America can enter into an engagement, that the American vessels will not submit to the orders in council of England of November, 1807, nor to any decree of blockade, unless this blockade should be real, the undersigned is authorized to conclude every species of convention tending to renew the treaty of commerce with America, and in which all the measures proper to consolidate the commerce and the prosperity of the Americans shall be provided for.

The undersigned has considered it his duty to answer the verbal overtures of the American minister by a written note, that the President of the United States may the better know the friendly intentions of France towards the United States, and her favourable disposition to American commerce.

The undersigned prays Mr. Armstrong to accept the assurance of his high consideration.

CHAMPAGNY,
Duc de Cadore.

Paris, Feb. 14, 1810.

His Excellency the Minister Plenipotentiary of the United States.

General Armstrong to Mr. Smith. Paris, Feb. 18, 1810.

SIR,—I wrote a few lines to you yesterday announcing the receipt and transmission of a copy of the duke of Cadore's note to me of the 14th instant.

After much serious reflection I have thought it best to forbear all notice at present of the errors, as well of fact as of argument, which may be found in the introductory part of this note; to take the minister at his word; to enter at once upon the proposed negotiation, and for this purpose to offer to him a projet for renewing the convention of 1800.

This mode will have the advantage of trying the sincerity of the overtures made by him, and perhaps of drawing from him the precise terms on which his master will accommodate. If these be such as we ought to accept, we shall have a treaty in which neither our rights nor our wrongs will be forgotten; if otherwise, there will be enough, both of time and occasion, to do justice to their policy and our own by a free examination of each.

With very great respect, &c. &c.

JOHN ARMSTRONG.

The Hon. Mr. Smith, &c. &c. &c.

*Extract of a Letter from General Armstrong to Mr. Smith.
March 10, 1810.*

"I HAVE at length received a verbal message in answer to my note of the 21st ult. It was from the minister of foreign relations and in the following words : ' His majesty has decided to sell the American property seized in Spain, but the money arising therefrom shall remain in depot.' This message has given occasion to a letter from me (marked No. 2) in a temper somewhat different from that of the 18th of February."

*General Armstrong to the Duke of Cadore. Paris, March
10, 1810.*

SIR,—I had yesterday the honour of receiving a verbal message from your excellency, stating, that his majesty had decided, that "the American property seized in the ports of Spain should be sold, but that the money arising therefrom should remain in depot."

On receiving this information, two questions suggested themselves :

1. Whether this decision was or was not extended to ships as well as to cargoes? and
2. Whether the money arising from the sales which might be made under it, would or would not be subject to the issue of the pending negotiation?

The gentleman charged with the delivery of your message not having been instructed to answer these questions, it becomes my duty to present them to your excellency, and to request a solution of them : Nor is it less a duty on my part to examine the ground on which his majesty has been pleased to take this decision, which I understand to be that of *reprisal*, suggested for the first time in the note you did me the honour to write to me on the 14th ultimo. In the 4th paragraph of this note it is said, that "his majesty could not have calculated on the measures taken by the United States, who, having no ground of complaint against France, have comprised her in their acts of exclusion, and since the month of May last, have prohibited the entry into their ports of French vessels by subjecting them to confiscation." It is true that the United States

have since the 20th of May last forbidden the entry of French vessels into their harbours, and it is also true that the penalty of confiscation attaches to the violation of this law. But in what respect does this offend France? Will she refuse to us the right of regulating commerce within our own ports? Or will she deny that the law in question is a regulation merely municipal? Examine it both as to object and means. What does it more than forbid American ships from going into the ports of France, and French ships from coming into those of the United States? And why this prohibition? To avoid injury and insult; to escape that lawlessness which is declared to be "a forced consequence of the decrees of the British council." If then its object be purely defensive, what are its means? Simply a *law*, previously and generally promulgated, operating solely within the territory of the United States, and punishing alike the infractors of it, whether citizens of the said states or others. And what is this but the exercise of a right, common to all nations, of excluding at their will foreign commerce, and of enforcing that exclusion? Can this be deemed a wrong to France? Can this be regarded as a legitimate cause of reprisal on the part of a power, who makes it the first duty of nations to defend their sovereignty, and who even denationalizes the ships of those who will not subscribe to the opinion?

But it has been said that the "United States have nothing to complain of against France."

Was the capture and condemnation of a ship driven on the shores of France by stress of weather and the perils of the sea, nothing? Was the seizure and sequestration of many cargoes brought to France in ships violating no law, and admitted to regular entry at the imperial custom houses, nothing? Was the violation of our maritime rights, consecrated as they have been by the solemn forms of a publick treaty, nothing? In a word, was it nothing that our ships were burnt on the high seas without other offence than that of belonging to the United States, or other apology than was to be found in the enhanced safety of the perpetrator? Surely if it be the duty of the United States to *resent* the theoretical usurpations of the British orders of November, 1807, it cannot be less their duty to *complain* of the daily and practical outrages on the part of

France. It is indeed true, that were the people of the United States destitute of policy, of honour and of energy, (as has been insinuated,) they might have adopted a system of discrimination between the two great belligerents; they might have drawn imaginary lines between the first and second aggressor; they might have resented in the one a conduct to which they tamely submitted in the other; and in this way have patched up a compromise between honour and interest, equally mean and disgraceful. But such was not the course they pursued, and it is perhaps a necessary consequence of the justice of their measures, that they are at this day an independent nation. But I will not press this part of my subject; it would be affrontful to your excellency (knowing as you do, that there are not less than one hundred American ships within his majesty's possession, or that of his allies) to multiply proofs, that *the United States have grounds of complaint against France.*

My attention is necessarily called to another part of the same paragraph, which immediately follows the quotation already made. "As soon," says your excellency, "as his majesty was informed of this measure, (the non-intercourse law) it became his duty to retaliate on the American vessels, not only within his own territories, but also within the countries under his influence. In the ports of Holland, Spain, Italy and Naples, the American vessels have been seized, because the *Americans had seized French vessels.*"

These remarks divide themselves into the following heads:

1. The right of his majesty to seize and confiscate American vessels within his own territories.
2. The right to do so within the territories of his allies; and
3. The reason of that right, viz. *because Americans had seized French vessels.*

The first of these subjects has been already examined, and the second must be decided like the first, since his majesty's rights within the limits of his ally cannot be greater than within his own. If then it has been shown, that the non-intercourse law was merely defensive in its object; that it was but intended to guard against that state of violence which unhappily prevailed; that it was re-

stricted in its operation to the territory of the United States, and that it was duly promulgated there and in Europe before execution, it will be almost unnecessary to repeat, that a law of such description cannot authorize a measure of *reprisal*, equally sudden and silent in its enactment and application, founded on no previous wrong, productive of no previous complaint, and operating beyond the limits of his majesty's territories, and within those of sovereigns who had even *invited* the commerce of the United States to their ports.

It is, therefore, the third subject only, *the reason of the right*, which remains to be examined ; and, with regard to it, I may observe, that if the alleged fact, which forms this reason, be unfounded, the reason itself fails, and the right with it. In this view of the business, I may be permitted to inquire, when and where any seizure of a French vessel has taken place, under the non-intercourse law ? And, at the same time, to express my firm persuasion, that no such seizure has been made ; a persuasion, founded alike on the silence of the government and of the journals of the country, and still more, on the positive declaration of several well informed and respectable persons, who have left America as late as the 26th of December last. My conclusion, therefore, is, that no *French vessel* having violated the law, no seizure of such *vessel* has occurred ; and that the report, which has reached Paris, is probably founded on a circumstance altogether unconnected with the non-intercourse law or its operation.

Though far from wishing to prolong this letter, I cannot close it without remarking the great and sudden change wrought in his majesty's sentiments, with regard to the defensive system adopted by the United States.

The law which is now believed to furnish ground for reprisal, was first communicated to his majesty in June or July last, and certainly did not *then* excite any suspicion of feeling unfriendly to the American government. Far from this, its communication was immediately followed by overtures of accommodation, which, though productive of no positive arrangement, did not make matters worse than they found them.

On the 22d of August last, I was honoured with a full exposition of the views and principles which had governed, and which should continue to govern, his majesty's

policy in relation to the United States, and in *this* we do not find the slightest trace of complaint against the provisions of the law in question.

At a period later than the 22d of August, an American ship, destined to a port of Spain, was captured by a French privateer. An appeal was made to his majesty's minister of war, who, having submitted the case, received orders *to liberate all American vessels, destined to Spanish ports, which had not violated the imperial decrees.* Another American ship, at a point of time still later than the capture of the preceding, was brought into the port of Bayonne, but having violated no law of his majesty, was acquitted by his council of prizes. And, lastly, in the long conversation I had the honour of holding with your excellency, on the 25th of January, no idea of reprisal was maintained by you, nor suspected by me; but, on the contrary, in speaking of the seizure of American property, in Spain, you expressly declared, that it was not a *confiscation*.

Can proofs be more conclusive, that, from the first promulgation of the law down to the 25th of January last, nothing in the nature of a reprisal was contemplated by his majesty?

What circumstance may have since occurred, to produce a change in his opinion, I know not; but the confidence I feel in the open and loyal policy of his majesty, altogether excludes the idea, that the rule was merely found for the occasion, and made to justify seizures, not otherwise justifiable.

I pray your excellency to accept, &c. &c.

JOHN ARMSTRONG.

His Excellency the Duke of Cadore, &c. &c. &c.

*Extracts of a Letter from General Armstrong to Mr. Smith,
Paris, April 4, 1810.*

"AFTER seven weeks detention in England, the John Adams has at length got back to France. She arrived in the roads of Havre on the 28th ult.

"I informed M. Champagny—1st. That Mr. Pinkney had not been able to send by this conveyance the result of his application to the British government concerning the blockades of France prior to the Berlin decrees; but that he

hoped to be able to send it in a few days by another conveyance: and 2d. That if he (M. Champagny) had any thing to communicate which would have the effect of changing the present relations of the two countries, and which he wished to be early known to the government of the United States, he would do well to let me know it within twenty-four hours, as the messenger would leave Paris within that time. To this message I received from him the following answer—‘that for some days past nothing in the nature of business, and unconnected with the marriage of the emperor, could be transacted; and that for some days to come the same cause of delay would continue to operate; that my letters were still before the emperor, and that he would seize the first moment to get some decision in relation to them.’ Thus you see every thing is yet in air.”

*Copy of Mr. Pinkney's Letter to General Armstrong.
London, March 23, 1810.*

DEAR SIR,—Although I have detained the corvette much longer than I wished, I am not yet able to send you the result of my application to this government concerning the British blockades of France prior to the Berlin decree. I expect to receive it in a very few days, and will immediately forward it to you by Mr. Lee, by the way of Morlaix, for it seems that the French government will not permit a messenger to land at any other port.

I have the honour, &c. &c.

WM. PINKNEY.

His Excellency Gen. Armstrong, &c. &c. &c.

General Armstrong to Mr. Smith. Paris, April 16, 1810.

SIR,—The John Adams being yet detained, I am able to inform you that on the 11th inst. the emperor directed the sale of all the American vessels taken in the ports of Spain, and that the money arising therefrom should be placed in his *caisse privé*. He has also refused to give up the *Hero*, and has ordered that the case be brought before the council of prizes, where condemnation necessarily awaits it. I send a copy of a note upon which this last

order was taken, and another relating to our business in Naples, and am, with very high consideration, your most obedient and very humble servant.

JOHN ARMSTRONG.

The Hon. Mr. Smith, &c. &c.

*Extracts of a Letter from General Armstrong to Mr. Smith.
Paris, May 3, 1810.*

“MR. LEE arrived here some days ago with two letters from Mr. Pinkney, copies of which, with my answer, are enclosed.”

“I need scarcely observe how impossible it is for me to make *this*, or *any similar statement* the ground work of a new demand for a repeal of the Berlin decree.”

*Mr. Pinkney to General Armstrong. London, March 27,
1810.*

SIR,—I had the honour to receive by Mr. Powell your letter of the 25th of January. In pursuance of my instructions, I have addressed a letter to the marquis Wellesley, his Britannick majesty's principal secretary of state for foreign affairs, inquiring whether any, and if any, what blockades of France, instituted by Great Britain during the present war, before the 1st of January, 1807, are understood by this government to be in force? Lord Wellesley's reply to that letter not being so explicit as I wished, I have written a second letter, requesting explanation. In his lordship's answer to my second letter, I am informed, that “the blockade notified by Great Britain in May, 1806, (from the Elbe to Brest) has never been formally withdrawn,” but that the restrictions which that blockade established are comprehended under the more extensive restrictions of the order in council of the 7th of January, 1807, and that no other blockade of the ports of France, was instituted by Great Britain between the 16th of May, 1806, and the 7th of January, 1807, excepting the blockade of Venice, instituted on the 27th of July, 1806, which is still in force.

I have the honour, &c. &c.

WM. PINKNEY.

His Excellency Gen. Armstrong, &c. &c. &c.

Mr. Pinkney to General Armstrong. London, April 6, 1810.

SIR,—I do not know whether the statement contained in my letter of the 27th of last month will enable you to obtain a recall of the Berlin decree. Certainly the inference from that statement is, that the blockade of 1806, is virtually at an end, being merged and comprehended in an order in council issued after the date of the edict of Berlin. I am, however, about to try to obtain a formal revocation of that blockade (and of that of Venice) or at least a precise declaration, that they are not in force. As it will not be possible to obtain either the one or the other very soon, (*if, indeed, they can be obtained at all*) I will not detain Mr. Lee, but I will send you another messenger (Mr. Craig, of Philadelphia) in the course of three or four weeks, with the result of my endeavours. In the mean time such use can be made of my communication of the 27th ultimo, as you may deem advisable.

I have the honour, &c. &c.

WM. PINKNEY.

His Excellency Gen. Armstrong, &c. &c. &c.

Extract of a Letter from General Armstrong to Mr. Pinkney. Paris, May 2, 1810.

“I HAVE received your three letters of the 3d and 27th of March and 6th of April. Accept my thanks for your friendly attention with regard to the passport, and express to lord Wellesley the sense I have of his lordship’s politeness and the pleasure it would give me to make this acknowledgment in person. The doubt with which you begin your letter of the 6th instant is well founded. The explanation you have received is not such as will enable me to demand the performance of the emperor’s promise, (communicated to you in my letter of the 25th of January last) since it (the explanation) not only admits that *the British order of blockade of May, 1806, is not formally withdrawn*, but that *that of the 27th of July of the same year, is still in force*. An argument in the face of these admissions, and founded merely on the operation of an order of ulterior

date and more extensive restriction, must not be hazarded, as it would be not merely useless, but productive of mischief."

*Extract of a Letter from General Armstrong to Mr. Smith.
Paris, May 24, 1810.*

"SOME circumstances have occurred, since the date of my despatch to Mr. Ronaldson, which from their importance make a speedy conveyance necessary. These I shall detail as briefly as possible.

1st. On the 14th instant was published here in the official and other journals, a decree of the emperor, dated at Rambouillet on the 23d of March last, directing the seizure and sale of all American vessels which had entered the ports of the empire, or of its dependencies, since the 20th of May last; &c. &c. &c.

2d. Four commissioners have been sent to Amsterdam, with orders to take possession of the American property to be found there, agreeably to the 10th article of the late treaty between France and Holland; and,

3d. Several of our ships and cargoes, with regard to which compromises have been made under the sanction of the council of prizes have been seized again to satisfy the provisions of the new decree."

Translation of a Decree issued by the Emperor of the French at Rambouillet, March 23, 1810.

NAPOLÉON, &c. &c. &c. Considering that the government of the United States, by an act dated the 1st of March, 1809, which forbids the entrance of the ports, harbours, and rivers of the said States, to all French vessels, orders,
1st. That after the 20th of May following, vessels under the French flag, which shall arrive in the United States, shall be seized and confiscated as well as their cargoes :
2d. That after the same epoch, no merchandise or produce, the growth or manufacture of France or her colonies, can be imported into the said United States from any foreign port or place whatsoever, under penalty of seizure, confiscation, and a fine of three times the value of the merchandise :
3d. That American vessels cannot go to any port

of France, of her colonies or dependencies : We have decreed and do decree what follows :

ART. 1. All vessels navigating under the flag of the United States, or possessed, in whole or in part, by any citizen or subject of that power, which, counting from the 20th of May, 1809, have entered or shall enter into the ports of our empire, of our colonies, or of the countries occupied by our arms, shall be seized, and the product of the sales shall be deposited in the surplus fund (caisse d'amortissement.)

There shall be excepted from this regulation, the vessels which shall be charged with despatches, or with commissions of the government of the said States, and who shall not have either cargoes or merchandise on board.

Our grand judge, minister of justice, and our minister of finance, are charged with the execution of our present decree.

NAPOLEON.

Extracts from a Letter of General Armstrong to Mr. Smith. Paris, August 5, 1810.

“ I HAD this morning the honour of receiving the enclosed note from the duke of Cadore, informing me that the imperial decrees of Berlin and Milan are revoked. I shall communicate this fact as promptly as possible to Mr. Pinkney.”

“ I shall obtain a specifick revocation of the decree of the 23d of March last ; but it ought to be known to you that this decree has had no operation since my first unofficial communication of the law of the 1st of May.”

TRANSLATION.

The Duke de Cadore to General Armstrong. Paris, Aug. 5, 1810.

SIR,—I have laid before his majesty, the emperor and king, the act of Congress of the 1st of May, taken from the gazette of the United States, which you have sent to me.

His majesty could have wished that this act, and all the other acts of the government of the United States, which interest France, had always been officially made known to him. In general, he has only had a knowledge of them indirectly, and after a long interval of time. There has resulted from this delay serious inconveniences, which would not have existed if these acts had been promptly and officially communicated.

The emperor had applauded the general embargo, laid by the United States on all their vessels, because that measure, if it has been prejudicial to France, had in it at least nothing offensive to her honour. It has caused her to lose her colonies of Martinique, Guadaloupe, and Cayenne : the emperor has not complained of it. He has made this sacrifice to the principle which had determined the Americans to lay the embargo, inspiring them with the noble resolution of interdicting to themselves the ocean, rather than to submit to the laws of those who wished to make themselves the tyrants (*les dominateurs*) of it.

The act of the 1st of March has raised the embargo, and substituted for it a measure the most injurious to the interests of France.

This act, of which the emperor knew nothing until very lately, interdicted to American vessels the commerce of France, at the time it authorized that to Spain, Naples, and Holland, that is to say, to the countries under French influence, and denounced confiscation against all French vessels which should enter the ports of America. Reprisal was a right, and commanded by the dignity of France, a circumstance on which it was impossible to make a compromise (*de transigir*.) The sequester of all the American vessels in France has been the necessary consequence of the measure taken by Congress.

Now Congress retrace their steps, (*revient sur ses pas*;) they revoke the act of the 1st of March; the ports of America are open to French commerce, and France is no longer interdicted to the Americans. In short, Congress engages to oppose itself to that one of the belligerent powers which should refuse to acknowledge the rights of neutrals.

In this new state of things, I am authorized to declare to you, sir, that the decrees of Berlin and Milan are revoked,

and that after the first of November they will cease to have effect ; it being understood that, in consequence of this declaration, the English shall revoke their orders in council, and renounce the new principles of blockade which they have wished to establish, or, that the United States, conformably to the act you have just communicated, shall cause their rights to be respected by the English.

It is with the most particular satisfaction, sir, that I make known to you this determination of the emperor. His majesty loves the Americans. Their prosperity and their commerce are within the scope of his policy.

The independence of America is one of the principal titles of glory to France. Since that epoch the emperor is pleased in aggrandizing the United States, and, under all circumstances, that which can contribute to the independence, to the prosperity, and the liberty of the Americans, the emperor will consider as conformable with the interests of his empire.

Accept, sir, the assurance of my high consideration.

CHAMPAGNY,

Duc de Cadore.

His Excellency General Armstrong, &c.

General Armstrong to the Duke of Cadore.

[No date.]

SIR,—The enclosed copy of the law of the United States of the 1st of May last, has been transmitted to me *officially* by the Secretary of State, and I hasten to lay it before your excellency. It will supply any want of authenticity which may be found in that already communicated.

In making this second communication of the law, I cannot but recall to your recollection an inference, injurious either to my government, or to myself, which may be drawn from the first paragraph of the letter you did me the honour to write to me on the 5th instant. In this paragraph it is said : “ S. M. auroit désiré, que cet acte, et tous les autres actes du gouvernement des Etats Unis, qui peuvent intéresser la France, lui eussent toujours été notifiés officiellement. En general elle n'en a eu connoissance qu'indirectement, et apres un long intervalle du

temps. Il resulte de ce retard, des inconveniens graves, qui n'auroient pas lieu, si ces actes etoient promptement et officiellement communiqes.”*

From these words it may be inferred, either that the United States have been habitually negligent in transmitting to me, such of their acts as concern France, or that I have neglected to perform my duty, in not presenting these acts with sufficient promptitude.

In looking back on the publick measures of the United States, which in any way interest France, I find but the following, viz :

1st. An act prohibiting commercial intercourse between the United States and St. Domingo.

2d. An act laying an embargo on the ships or other vessels of the United States.

3d. An act prohibiting all commercial intercourse between the United States and France.

4th. An arrangement made between the Secretary of State of the United States, and the minister of his Britannick majesty at Washington ; and

5th. The late act of the 1st May. Now of these, *all* have been presented *officially* ; and, making a proper allowance for the remoteness of the United States from France, with sufficient promptitude, excepting the *last* which (from causes unknown to me) did not reach Paris until yesterday. Your excellency can at any time ascertain the correctness of this statement by referring to the archives of your own department.

I have the honour, &c. &c.

JOHN ARMSTRONG.

His Excellency the Duke de Cadore.

Extracts of a Letter from General Armstrong to Mr. Smith. Sept. 10, 1810.

“SINCE the date of my last despatch (by Mr. Jarvis) nothing has occurred worth communicating, until yester-

* *Translation.* “His majesty could have wished, that this act and all the other acts of the government of the United States, which interest France, had always been officially made known to him. In general he has only had a knowledge of them indirectly, and after a long interval of time. There has resulted from this delay serious inconveniences, which would not have existed, if these acts had been promptly and officially communicated.”

day, when I received the letter from the duke of Cadore, of which No. 1. (enclosed) is a copy. By this it will be seen that the decree of Rambouillet is not in operation, and that American ships entering the ports of France before the 1st of November next, will be judged under the decrees of Berlin and of Milan."

"No. 2. is the copy of a note written to M. Champagny, with a view of drawing from him something explicit, on the points of which it treats. The first of these may appear to have been useless, after the declaration of that minister, that American ships, which will hereafter arrive in the ports of France, shall not be subject to confiscation; but understanding from the council of prizes, that until some act be taken which had the effect of recalling by name the decree of the 23d of March last, they must continue to consider it both as existing and operative, and of course binding upon them, I hastened to present the subject again, and in a form which leaves no room for misunderstanding."

"12th Sept. I have the honour to enclose copies of two other letters from the duke of Cadore, one of which is an answer to my note of the 8th instant. To the question, whether we had any thing to expect in reparation for past wrongs? they reply, that their act being of reprisal, the law of reprisal must govern; in other words, that *if you confiscate French property under the law of non-intercourse, they will confiscate your property under their decree of Rambouillet.* The words underscored is the verbal explanation which accompanied the letter."

"I set out this day for Bordeaux, (on my way to the United States,) and hope to begin my voyage from that port on the 1st of October next."

TRANSLATION.

The Duke of Cadore to General Armstrong. Paris, Sept. 7, 1810.

SIR,—You have done me the honour to ask of me, by your letter of the 20th of August, what will be the lot of the American vessels which may arrive in France before the 1st of November.

His majesty has always wished to favour the commerce of the United States. It was not without reluctance that he used reprisal towards the Americans while he saw that Congress had ordered the confiscation of all French vessels which might arrive in the United States.

It appears that Congress might have spared to his majesty and his subjects this mortification, (*ce désagrément*) if in place of that harsh and decisive measure, which left to France no choice, they had used some palliative, such as that of not receiving French vessels, or of sending them away, after a delay of so many days.

As soon as his majesty was informed of this hostile act, he felt that the honour of France, involved in this point, could not be cleansed (*ne pouvait être lavé*) but by a declaration of war, (which) could not take place but by tedious explanations.

The emperor contented himself with making reprisals; and in consequence, he applied to American vessels which came to France, or to the countries occupied by the French armies, word for word, the regulations of the act of Congress.

Since the last measures by which that hostile act is repealed, his majesty hastens to cause it to be made known to you, that he anticipates that which may re-establish harmony with the United States, and that he repeals his decrees of Berlin and Milan, under the conditions pointed out in my letter to you, of the 5th of August.

During this interval, the American vessels which shall arrive in France, will not be subjected to confiscation; because the act of Congress, which had served as a motive to our reprisals, is repealed; but these vessels will be subjected to all the effects of the Berlin and Milan decrees; that is to say, they will be treated *amicably*, if they can be considered as Americans, and *hostilely*, if they have lost their national character, (*s'ils se sont laissé dénationalisé*) by submitting to the orders in council of the British government.

I have the honour to renew to you, sir, the assurance of my high consideration.

CHAMPAGNY,

Duc de Cadore.

His Excellency General Armstrong, &c. &c. &c.

*General Armstrong to the Duke of Cadore. Paris, Sept.
7, 1810.*

SIR,—Your excellency will not think me importunate if I should employ the last moments of my stay in Paris, in seeking an explicit declaration on the following points :

1. Has the decree of his majesty of the 23d of March last, enjoining acts of reprisal against the commerce of the United States on account of their late law of non-intercourse, been recalled ?

2. What will be the operation (on the vessels of the United States) of his majesty's decree of July last, forbidding the departure of neutral ships from ports of France, unless provided with *imperial licenses* ? Are these licenses merely substitutes for clearances ? or do they prescribe regulations to be observed by the holders of them within the jurisdiction of the United States ?

Do they confine the permitted intercourse to two ports only of the said States, and do they enjoin that all shipments be made on French account exclusively ?

Is it his majesty's will, that the seizures made in the ports of Spain and other places, on the principle of reprisal, shall become a subject of present or future negotiation between the two governments ? or, are the acts already taken by his majesty to be regarded as conclusive against remuneration ?

I need not suggest to your excellency the interest that both governments have in the answers that may be given to these questions, and how nearly connected they are with the good understanding which ought to exist between them. After the great step lately taken by his majesty towards an accommodation of differences, we are not at liberty to suppose that any new consideration will arise, which shall either retard or prevent the adoption of measures necessary to a full restoration of the commercial intercourse and friendly relation of the two powers.

I cannot omit expressing, on this occasion, the sense I shall carry with me of the many obligations I am personally under to your excellency, and of the very high consideration with which I have the honour to be, &c.

JOHN ARMSTRONG.

His Excellency the Duke of Cadore, &c. &c. &c.

TRANSLATION.

The Duke of Cadore to General Armstrong. Paris, September 12, 1810.

SIR,—I have received your letter of the 7th September. That which I wrote to you the same day answered the first of the questions you put to me. I will add to what I have had the honour to write to you, that the decree of the 23d March, 1810, which ordered reprisals in consequence of the act of Congress of the 1st March, 1809, was repealed as soon as we were informed of the repeal of the act of *non-intercourse* passed against France.

On your second question I hasten to declare to you, that American vessels loaded with merchandise, the growth of the American provinces, will be received without difficulty in the ports of France, provided they have not suffered their flag to lose its national character, by submitting to the acts of the British council; they may in like manner depart from the ports of France. The emperor has given licenses to American vessels. It is the only flag which has obtained them. In this his majesty has intended to give a proof of the respect he loves to show to the Americans. If he is somewhat dissatisfied (*peu satisfaite*) that they have not as yet been able to succeed in causing their flag to be respected, at least he sees with pleasure that they are far from acknowledging the tyrannical principles of English legislation.

The American vessels which may be loaded on account of Frenchmen or on account of Americans, will be admitted into the ports of France. As to the merchandise confiscated, it having been confiscated as a measure of *reprisal*, the *principles of reprisal* must be the law in that affair.

I have the honour to renew to you, sir, the assurance of my high consideration.

CHAMPAGNY,
Duc de Cadore.

His Excellency Gen. Armstrong, &c. &c. &c.

General Armstrong to Mr. Pinkney. Bordeaux, September 29, 1810.

SIR,—Your letter of the third instant found me at this place, and on the point of embarking for the United States. I hasten, therefore, to give to it an immediate answer.

There was no error in my representation to you, nor in your representation to lord Wellesley, of the words, or of the meaning, as I understand it, of the duke of Cadore's note to me; nor indeed do either of these appear to be readily susceptible of mistake. The former, no doubt, *retract*, in the most positive terms, the Berlin and Milan decrees, and, of course, the principles on which these decrees were founded; and in doing so, assuredly gives us a fair claim on his Britannick majesty for a fulfilment of the promise made by his minister plenipotentiary to our government, on the 23d day of February, 1808. It would however appear by lord Wellesley's letter to you, of the 31st ultimo, that the British cabinet has given a new version to this promise of his majesty, and that, as a preliminary to its execution, it is now required, not merely that the *principles*, which had rendered necessary the British system, should be *retracted*, but that the repeal of the French decrees should have actually begun to operate, and that *the commerce of neutral nations (generally) should have been restored to the condition in which it stood previously to the promulgation of these decrees*. It would also appear from different passages in your letter, that this deviation from the original promise of his majesty grew out of a supposition, that the recall of the French decrees implied a *contemporaneous cessation of the British orders in council of November, 1807, and a repeal before the first day of November next, of all proclamation blockades of France, &c. &c.* Than this construction nothing can, in my opinion, be more erroneous. Were the repeal of the French decrees dependent alone on what Great Britain may do, the supposition would have in it some colour of reasonableness; but as the conditions of it present an alternative, one side of which depends, not on the will of his Britannick majesty at all, but altogether on that of the United States, and which cannot be adopted by them until *after the first*

of *November* next, it necessarily follows that the conditions are not *precedent*, as has been supposed, but *subsequent*, as I represent them. This reasoning will receive illustration from a plain and unsophisticated statement of the duke of Cadore's declaration, viz. That the Berlin and Milan decrees will cease to operate after the first day of *November* next, on one of two conditions ; either that Great Britain shall revoke her orders in council, so far as they violate the maritime rights of the United States, or that, refusing to do so, the United States shall revive towards her certain sections of their late non-intercourse law, conformably to an act of Congress of the first of May last. In this we find nothing of a contemporaneous cessation of the French decrees and British orders in council, nor that the blockades of France must be recalled before the first day of *November* next : indeed the very reverse is to be found there ; for it contains an express engagement, that the decrees shall cease, if the United States do a certain act which all the world knows they cannot do till *after* that day. These remarks may derive some additional force from the contents of my letter, by Mr. Masson, which will, I hope, show, that the concessions made by France to the United States, are at least sufficiently substantial to invite from Great Britain some measures of a character equally conciliatory, and that "earnestly desiring to see the commerce of the world restored to that freedom which is necessary to its prosperity," and no more hesitating to follow the good, than she has done to follow the bad example of her neighbour and rival, she will go on to declare, that her orders in council, &c. shall cease after the first day of *November* next, on condition, either that *France shall have actually withdrawn her offensive decrees on that day.* or, that if she refuse to do so, the United States shall proceed to enforce against her their late non-intercourse law.

In my view of the subject, nothing short of this can be considered a sufficient pledge, on the part of the British government, which, unlike that of France, presents no alternative in the conditions on which her orders in council shall be repealed, and which, of course, in no way makes

that repeal to depend on an act, which would be altogether that of the United States.

I have the honour to be, &c.

JOHN ARMSTRONG.

His Excellency Wm. Pinkney, &c. &c. &c.

PAPERS

IN RELATION TO WEST FLORIDA, ACCOMPANYING THE PRESIDENT'S MESSAGE OF DEC. 5, 1810.

Mr. Smith to Governour Claiborne. Department of State, Oct. 27, 1810.

SIR,—From the enclosed proclamation of the President of the United States, you will perceive his determination to take possession of the territory therein specified, in the name and in behalf of the United States; the considerations which have constrained him to resort to this necessary measure, and his direction that you, as governour of the Orleans territory, shall execute the same. Of this proclamation, upon your arrival at Natchez, you will, without delay, cause to be printed as many copies in the English, French, and Spanish languages, as may be deemed necessary, and you will cause the same to be extensively circulated throughout the said territory.

You will immediately proceed by the nearest and best route to the town of Washington, in the Mississippi territory. From the secretary at war, you will receive an order to the officers commanding the several frontier posts, to afford you such assistance in passing the wilderness and in descending the western waters as you may require. And as despatch is very desirable, you are authorized, in case your horses should fail, to procure others at the publick expense. After having made at Washington the necessary arrangements with governour Holmes, and with the commanding officer of the regular troops, you will without delay proceed into the said territory, and in virtue of the President's proclamation, take possession of the same in the name and in behalf of the United States.

As the district, the possession of which you are directed to take, is to be considered as making a part of the

territory of Orleans, you will, after taking possession, lose no time in proceeding to organize the militia, to prescribe the bounds of parishes, to establish parish courts, and finally to do whatever your legal powers applicable to the case will warrant, and may be calculated to maintain order, to secure to the inhabitants the peaceable enjoyment of their liberty, property, and religion, and to place them as far as may be on the same footing with the inhabitants of the other districts under your authority. As far as your powers may be inadequate to these and other requisite objects, the legislature of Orleans, which it is understood will soon be in session, will have an opportunity of making further provisions for them, more especially for giving, by law, to the inhabitants of the said territory, a just share in the representation in the general assembly; it being desirable that the interval of this privation should not be prolonged beyond the unavoidable necessity of the case.

If, contrary to expectation, the occupation of this territory, on the part of the United States, should be opposed by force, the commanding officer of the regular troops on the Mississippi will have orders from the secretary at war to afford you, upon your application, the requisite aid, and should an additional force be deemed necessary, you will draw from the Orleans territory, as will governor Holmes from the Mississippi territory, militia in such numbers, and in such proportions from your respective territories, as you and governor Holmes may deem proper. Should, however, any particular place, however small, remain in possession of a Spanish force, you will not proceed to employ force against it; but you will make immediate report thereof to this department.

You will avail yourself of the first favourable opportunities that may occur to transmit to the several governors of the Spanish provinces in the neighbourhood, copies of the President's proclamation, with accompanying letters of a conciliatory tendency.

To defray any reasonable expenditures which may necessarily attend the execution of these instructions, the President authorizes you, having due regard to economy, to draw for a sum not exceeding, in any event, twenty thousand dollars.

From the confidence which the President justly has in your judgment and discretion, he is persuaded that in the execution of this trust, as delicate as it is important, your deportment will be temperate and conciliatory. Such a line of conduct towards the inhabitants is prescribed as well by policy as by justice.

You will, it is expected, be fully sensible of the necessity, not only of communicating every important event that may occur in the progress of this business, but of transmitting a letter, whatever may be its contents, by every mail to this city.

I have the honour to be, &c.

R. SMITH.

By the President of the United States of America.

A PROCLAMATION.

WHEREAS, the territory south of the Mississippi territory, and eastward of the river Mississippi, and extending to the river Perdido, of which possession was not delivered to the United States in pursuance of the treaty concluded at Paris on the 30th of April, 1803, has at all times, as is well known, been considered and claimed by them, as being within the colony of Louisiana conveyed by the said treaty, in the same extent that it had in the hands of Spain, and that it had when France originally possessed it.

And whereas, the acquiescence of the United States in the temporary continuance of the said territory under the Spanish authority, was not the result of any distrust of their title, as has been particularly evinced by the general tenour of their laws, and by the distinction made in the application of those laws between that territory and foreign countries; but was occasioned by their conciliatory views, and by a confidence in the justice of their cause, and in the success of candid discussion and amicable negotiation with a just and friendly power.

And whereas, a satisfactory adjustment, too long delayed, without the fault of the United States, has for some time been entirely suspended by events over which they had no control; and whereas a crisis has at length arrived, subversive of the order of things under the Spanish

authorities, whereby a failure of the United States to take the said territory into their possession, may lead to events ultimately contravening the views of both parties, whilst in the mean time the tranquillity and security of our adjoining territories are endangered, and new facilities given to violations of our revenue and commercial laws, and of those prohibiting the introduction of slaves.

Considering, moreover, that under these peculiar and imperative circumstances, a forbearance on the part of the United States to occupy the territory in question, and thereby guard against the confusions and contingencies which threaten it, might be construed into a dereliction of their title, or an insensibility to the importance of the state: considering that, in the hands of the United States, it will not cease to be a subject of fair and friendly negotiation and adjustment: considering finally, that the acts of Congress, though contemplating a present possession by a foreign authority, have contemplated also an eventual possession of the said territory by the United States, and are accordingly so framed as in that case to extend in their operation to the same.

Now be it known, That I, JAMES MADISON, President of the United States of America, in pursuance of these weighty and urgent considerations, have deemed it right and requisite, that possession should be taken of the said territory in the name and behalf of the United States. William C. C. Claiborne, governour of the Orleans territory, of which the said territory is to be taken as part, will accordingly proceed to execute the same; and to exercise over the said territory the authorities and functions legally appertaining to his office. And the good people inhabiting the same are invited and enjoined to pay due respect to him in that character, to be obedient to the laws, to maintain order, to cherish harmony, and in every manner to conduct themselves as peaceable citizens, under full assurance, that they will be protected in the enjoyment of their liberty, property, and religion.

IN TESTIMONY WHEREOF, I have caused the seal of the United States to be hereunto affixed, and signed the same with my hand. Done at the city of Washington, the twenty-seventh day of October,

Anno Domini, one thousand eight hundred and ten,
and in the thirty-fifth year of the independence of
the United States.

JAMES MADISON.

By the President,

R. SMITH,
Secretary of State.

*Extract of a Letter from Governour Holmes to Robert
Smith, Esq. Secretary of State. Town of Washington,
Oct. 17, 1810.*

“THE enclosed letter I have been requested to trans-
mit to you.”

*To the Honourable Robert Smith, Secretary of State for
the United States.*

SIR,—The convention of the state of Florida have already transmitted an official copy of their act of independence, through his excellency governour Holmes, to the President of the United States, accompanied with the expression of their hope and desire, that this commonwealth may be immediately acknowledged and protected, by the government of the United States, as an integral part of the American Union. On a subject so interesting to the community represented by us, it is necessary that we should have the most direct and unequivocal assurances of the views and wishes of the American government without delay, since our weak and unprotected situation will oblige us to look to some foreign government for support, should it be refused to us by the country which we have considered as our parent state.

We therefore make this direct appeal, through you, to the President and general government of the American States, to solicit that immediate protection, to which we consider ourselves entitled; and to obtain a speedy and favourable decision, we offer the following considerations:—1st. The government of the United States, in their instructions to the envoys extraordinary at Paris, in March, 1806, authorized the purchase of East Florida, directing them at the same time to engage France to intercede with

the cabinet of Spain, to relinquish any claim to the territory which now forms this commonwealth. 2d. In all diplomatic correspondence with the American ministers abroad, the government of the United States have spoken of West Florida as a part of the Louisiana cession. They have legislated for the country as a part of their own territory, and have deferred to take possession of it, in expectation that Spain might be induced to relinquish her claim by amicable negotiation. 3d. The American government has already refused to accredit any minister from the Spanish junta, which body was certainly more legally organized, as the representative of the sovereignty, than that now called the regency of Spain; therefore the United States cannot but regard any force or authority emanating from them, with an intention to subjugate us, as they would an invasion of their territory by a foreign enemy. 4th. The emperor of France has invited the Spanish Americans to declare their independence, rather than remain in subjection to the old Spanish government; therefore, an acknowledgment of our independence by the United States could not be complained of by France, or involve the American government in any contest with that power. 5th. Neither can it afford any just cause of complaint to Great Britain, although she be the ally of Spain, that the United States should acknowledge and support our independence, as this measure was necessary to save the country from falling into the hands of the French exiles from the island of Cuba, and other partisans of Bonaparte, who are the eternal enemies of Great Britain.

Should the United States be induced by these or any other considerations to acknowledge our claim to their protection, as an integral part of their territory, or otherwise, we feel it our duty to claim for our constituents an immediate admission into the Union as an independent state, or as a territory of the United States, with permission to establish our own form of government, or to be united with one of the neighbouring territories, or a part of one of them, in such manner as to form a state. Should it be thought proper to annex us to one of the neighbouring territories, or a part of one of them, the inhabitants of this commonwealth would prefer being annexed to the island of Orleans; and in the mean while, until a state government should be established, that they should be go-

verned by the ordinances already enacted by this convention, and by their further regulations hereafter.

The claim which we have to the soil, or unlocated lands, within this commonwealth, will not, it is presumed, be contested by the United States, as they have tacitly acquiesced in the claim of France or Spain for seven years, and the restrictions of the several embargo and non-intercourse laws might fairly be construed, if not as a relinquishment of their claim, yet, at least, sufficient to entitle the people of this commonwealth, (who have wrested the government and country from Spain, at the risk of their lives and fortunes) to all the unlocated lands. It will strike the American government, that the moneys arising from the sales of these lands, applied as they will be to improving the internal communications of the country, opening canals, &c. &c. will, in fact, be adding to the prosperity and strength of the federal Union.

To fulfil with good faith our promises and engagements to the inhabitants of this country, it will be our duty to stipulate for an unqualified pardon, for all deserters now residing within this commonwealth, together with an exemption from further service in the army or navy of the United States.

A loan of \$100,000 is solicited of the American government, to be reimbursed at three, six, and nine years from the sales of publick lands. This loan may be made by the Secretary of the Treasury immediately, without committing the government, or making it known to foreign ministers at Washington.

In order not to embarrass the cabinet of the United States, and to receive first through their own confidential agents, their wishes and views with respect to us, it is deemed prudent to defer the departure of our envoy already named, who will be despatched immediately on receiving information that such a measure will meet the approbation of the United States.

We pray you to accept the assurances of our respect and high consideration.

By Order of the Convention.

JOHN RHEA, President.

Baton Rouge, Oct. 11, 1810.

*The Convention of Florida to his Excellency the Governour
of the Mississippi Territory.*

SIR,—We, the delegates of the people of this state, have the honour to enclose to you an official copy of their act of independence, requesting that it may be forthwith transmitted by you to the President of the United States, with the expression of their most confident and ardent hope, that it may accord with the policy of the government, as it does with the safety and happiness of the people of the United States, to take the present government and people of this state under their immediate and special protection, as an integral and inalienable portion of the United States.

The convention and their constituents of the state of Florida rest in the firm persuasion, that the blood which flows in their veins will remind the government and people of the United States, that they are their children, that they have been acknowledged as such by the most solemn acts of the Congress of the United States, and that so long as independence and the rights of man shall be maintained and cherished by the American Union, the good people of this state cannot, nor will not, be abandoned or exposed to the invasion, violence or force of any foreign or domestic foe.

The convention beg you to receive for yourself, sir, and to assure the President of their high respect and consideration.

By Order of the Convention.

JOHN RHEA, President.

Baton Rouge, Sept. 26, 1810.

*By the Representatives of the People of West Florida in
Convention assembled,*

A DECLARATION.

It is known to the world, with how much fidelity the good people of this territory have professed and maintained allegiance to their legitimate sovereign, while any hope remained of receiving from him protection for their property and lives. Without making any unnecessary innovation in the established principles of the government, we had

voluntarily adopted certain regulations in concert with our first magistrate, for the express purpose of preserving this territory, and showing our attachment to the government which had heretofore protected us. This compact, which was entered into with good faith on our part, will for ever remain an honourable testimony of our upright intentions and inviolable fidelity to our king and parent country, while so much as a shadow of legitimate authority remained to be exercised over us. We sought only a speedy remedy for such evils as seemed to endanger our existence and prosperity, and were encouraged by our governour with solemn promises of assistance and co-operation. But those measures which were intended for our preservation, he has endeavoured to pervert into an engine of destruction, by encouraging in the most perfidious manner the violation of ordinances sanctioned and established by himself as the law of the land.

Being thus left without any hope of protection from the mother country, betrayed by a magistrate whose duty it was to have provided for the safety and tranquillity of the people and government committed to his charge, and exposed to all the evils of a state of anarchy, which we have so long endeavoured to avert; it becomes our duty to provide for our own security, as a free and independent state, absolved from all allegiance to a government which no longer protects us.

We, therefore, the representatives aforesaid, appealing to the Supreme Ruler of the world for the rectitude of our intentions, do solemnly publish and declare the several districts composing this territory of West Florida, to be a *free and independent state*, and that they have a right to institute for themselves such form of government as they may think conducive to their safety and happiness, to form treaties, to establish commerce, to provide for their common defence, and do all acts which may of right be done by a sovereign and independent nation; at the same time declaring all acts within the said territory of West Florida, after this date, by any tribunal or authorities, not deriving their powers from the people agreeable to the provisions of this convention, to be null and void; and calling upon all foreign nations to respect this our declaration, acknowledging our independence, and giving us such aid as may be consistent with the laws and usages of nations.

This declaration made in convention at the town of Baton Rouge, on the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and ten, we, the representatives in the name and on behalf of our constituents, do hereby solemnly pledge ourselves to support with our lives and fortunes.

By Order of the Convention.

JOHN RHEA, President.

ANDREW STEELE, Secretary.

*Mr. Smith to Governour Holmes. Department of State,
November 15, 1810.*

SIR,—I have received your letter of the 17th of October, enclosing the memorial of the convention of West Florida. To repress the unreasonable expectations therein indicated, in relation to the vacant land in that territory, it is deemed proper to lose no time in communicating to you and to governour Claiborne the sentiments of the President on the subject.

The right of the United States to the territory of West Florida, as far as the river Perdido, was fairly acquired by purchase, and has been formally ratified by treaty. The delivery of possession has, indeed, been deferred, and the procrastination has been heretofore acquiesced in by this government from a hope, patiently indulged, that amicable negotiation would accomplish the equitable purpose of the United States. But this delay, which proceeded only from the forbearance of the United States to enforce a legitimate and well known claim, could not impair the legality of their title, nor could any change in the internal state of things without their sanction, howsoever brought about, vary their right. It remains, of course, as perfect as it was before the interposition of the convention. And the people of West Florida must not for a moment be misled by the expectation that the United States will surrender, for their exclusive benefit, what had been purchased with the treasure and for the benefit of the whole. The vacant land of this territory, thrown into common stock with all the other vacant land of the Union, will be a property in common for the national uses of all the people of the United States. The community of interests, upon which this

government invariably acts, the liberal policy which it has uniformly displayed towards the people of the territories, (a part of which policy has ever been a just regard to honest settlers) will, nevertheless, be a sufficient pledge to the inhabitants of West Florida, for the early and continued attention of the federal legislature to their situation and their wants.

These observations will apprise you, sir, of the sentiments of the President, as to the propositions in the memorial in relation to the vacant land in West Florida, and will enable you to make, when necessary and proper, suitable explanations to the people of that territory. You will, however, keep in mind that the President cannot recognise in the convention of West Florida, any independent authority whatever to propose or to form a compact with the United States.

I have the honour to be, &c.

R. SMITH.

To Governour Holmes.

Extract of a Letter from John Gavino, Esq. Consul of the United States at Gibraltar, to the Secretary of State. September 18, 1810.

"I BEG leave to hand you a copy of a letter from consul Coxe, dated Malta, 26th ult. when he was on his return to Tunis. It has given me great pleasure to find his having succeeded in terminating amicably the differences which had taken place with that bey."

From Mr. Coxe to Mr. Gavino. Malta, Aug. 26, 1810.

SIR,—I arrived at this place on the 22d instant, in the schooner Hamilton, captain Whitlock, as a flag of truce, in consequence of an unfavourable change in the situation of our affairs at Tunis, with the expectation of making some arrangement whereby the difficulty which has taken place may be amicably adjusted.

On the 14th instant his excellency the bey sent a messenger to request my presence at the palace. I accordingly presented myself, and he informed me that in consequence of the seizure of a vessel belonging to him, and

bearing his flag, through the interference of Mr. Pulis, the American consul at Malta, he had given orders to arrest all the Americans and sequester all their property in the kingdom of Tunis, which he would hold until he received full satisfaction from the United States, considering them responsible for the acts of their publick agents.

The vessel alluded to was the ship *Liberty*, of Philadelphia, belonging to William Haslett, of that place, which had been taken by a French privateer, brought to Tunis, and sold by order of the French consul at publick auction. The first minister of the bey was the purchaser, and she afterwards proceeded to Malta, under Tunisian colours, where she arrived without interruption in the month of May last. Mr. Pulis, the American consul, applied to the Maltese court, or *Consolato del Mare*, (as the British vice admiralty court, would not interfere) and claimed the ship for the original American owners. His excellency the bey, on being informed of this, took the measures before related.

He not only regards this as a loss of property, but as an insult offered to his flag, and will view it as a declaration of war, if the ship should not be restored to him, with damages for detention. He insists on the right of purchasing prize vessels at auction, or any others offered for sale in his kingdom, and that his flag shall protect them. His excellency declared, that he had given me the strongest proofs of his justice and friendly disposition to my government, in causing all the American vessels and their cargoes to be released, which had been taken within the limits of his jurisdiction; but that those taken on the high seas was an affair between the American and French governments, and did not concern him. He has warned me, that if the ship *Rolla* (an American vessel taken by a French privateer *without* his jurisdictional limits) and purchased by his agents at publick auction, at the French consulate, should be hereafter claimed by an American citizen, and given up to him, the Americans with their property at Tunis shall be answerable for the event.

The amount of American property at Tunis may be computed at about \$250,000.

All my endeavours to deter his excellency from these harsh measures were of no avail. He assured me in the most solemn manner, that he would not only firmly adhere

to the steps he had already taken, but would pursue such others as he might deem necessary. I have now, however, to inform you, that on my arrival here, and in consequence of my having officially informed Mr. Pulis of what had taken place at Tunis, he has, as the only alternative to prevent a war, withdrawn his claim, and the ship has been restored to the bey's ambassador at this place, whereby our relations with that regency are again placed on the same friendly footing on which they were before this unfortunate occurrence took place.

I shall sail on my return to Tunis immediately, in the vessel which brought me here; having thus brought the difficulty which had arisen to an amicable conclusion, on terms which I trust will be satisfactory to my government.

Very respectfully, I have the honour to be, &c.

C. D. COXE.

MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES, TO THE
HOUSE OF REPRESENTATIVES. DEC. 28, 1810.

I LAY before the House a report from the Secretary of State, complying with their resolution of the 21st inst.

JAMES MADISON.

Department of State, December 28, 1810.

SIR,—In pursuance of the resolution of the House of Representatives of the 21st of this month, I have the honour of laying before you :

1st. A copy (marked A) of a decree of the emperor of France, transmitted to this department by general Armstrong.

2d. A copy (marked B) of a correspondence with general Turreau.

3d. A copy (marked C) of a communication, just received from general Armstrong, in relation to the duties lately imposed by the emperor of France.

With the highest respect and consideration, I have the honour to remain, &c.

R. SMITH.

To the President of the United States.

(A.)

Translation of a Decree of the 15th (9) July, 1810.

THIRTY or forty American vessels may import into France (under license) cotton, fish oil, dyewood, salt fish, cod fish, hides and peltry. They may export wine, brandy, silks, linens, cloths, jewelry, household furniture, and other manufactured articles. They can only depart from Charleston and New York, under the obligation of bringing with them a gazette of the day of their departure, (American gazette) moreover a certificate of the origin of the merchandise, given by the French consul, containing a sentence in cypher : the French merchants who shall cause these vessels to come must prove that they are concerned in the fabricks at Paris, Rouen, and other towns.

(B.)

TRANSLATION.

General Turreau to Mr. Smith. Washington, November 27, 1810.

SIR,—Since our last conversation relative to the certificates of origin given by the consuls of his majesty in the United States, I have collected and read over the different orders of my court on that subject, and asked of the consul general of France those which he might have received directly on this part of the service, so essential for the security of your exportations.

It results from the instructions which I have received directly, and from those that have been sent to the consul general, that the consuls of his majesty in the United States do not deliver, or must not hereafter deliver, under any pretext, any certificate of origin to American vessels destined for any port other than those of France : that they deliver them and will deliver them hereafter to all American vessels destined for the ports of France, loaded only with the produce of the United States : that all the certifi-

cates anterior to the last instructions attributed to the consuls of his majesty, and which it is pretended were given for colonial produce, that evidently came from England, have been challenged as false (*argues de faux*) in as much as the English publickly fabricate papers of this sort at London.

This, sir, is all that it is possible for me to say to you at present respecting certificates of origin.

I cannot doubt but that the government of the United States will see in these regulations of my court an intention, distinctly pronounced, of favouring the commercial relations between France and the United States in all the objects of traffick which shall evidently proceed from their agriculture or manufactures.

You will readily perceive, sir, that in giving this latitude to the mutually advantageous relations of the two friendly people, the emperor cannot depart from the system of exclusion against English commerce without losing the advantages which his majesty and the allied powers must necessarily expect from it.

I have the honour to be, with high consideration, &c.

TURREAU.

Hon. Robert Smith, Secretary of State.

The Secretary of State to General Turreau. Department of State, Nov. 28, 1810.

SIR,—I have had the honour of receiving your letter of yesterday, stating that the French consuls in the United States are at this time authorized to deliver certificates of origin only to such American vessels as are bound to some port of France, and as are laden with the produce of the United States.

It will afford satisfaction to our merchants to know, and therefore I have to request you to inform me, whether in American vessels having such certificates of origin, they can export to France every kind of produce of the United States, and especially cotton and tobacco.

In addition to the intelligence communicated in your letter in relation to the certificates of origin, I have the honour of asking from you information upon the following questions :

1st. Have not the French consuls been in the practice, under the authority of the French government, of delivering in the ports of the United States certificates of origin for American vessels, bound to the ports of France, and of her allies, and laden with either colonial produce, or the produce of the United States ?

2d. Have the French consuls in the United States lately received from the French government instructions not to deliver such certificates of origin for American vessels, and at what time did they receive such instructions ?

3d. At what time did the French consuls cease to issue certificates of origin to American vessels, in pursuance of instructions from their government, in cases of destination to ports of the allies of France ?

These facts being connected with questions interesting to our merchants in foreign tribunals, your goodness will pardon the resort to your aid in ascertaining them.

I have the honour to be, &c.

R. SMITH.

General Turreau, &c. &c. &c.

TRANSLATION.

General Turreau to Mr. Smith. Washington, December 12, 1810.

SIR,—If I have not replied sooner to the letter which you did me the honour to write to me on the 28th of last month, it is because I have sought information from the consul general of his majesty, whether he had not received directly instructions more recent than those which I had transmitted to him, and also to enable me to give a positive answer to the questions contained in the letter referred to above.

I reply, sir, to the first of your questions—that M. M. the consuls of his majesty to the United States have always delivered certificates of origin to American vessels for the ports of France : they did it in execution of a decree of his majesty of the 1st of Messidor, of the year eleven.

M. M. the French consuls have also delivered them to vessels destined for neutral or allied ports, whenever they

have been required of them. This measure was sanctioned and authorized by a circular despatch of his excellency the minister of foreign relations, under date of the 20th of April, 1808. This despatch prescribes the formalities to be gone through for the certificates delivered in such cases.

I proceed now, sir, to reply to the second of your questions.

By a despatch of his excellency the duke of Cadore, of the 30th of August last, received by the "Hornet" the 13th of last month, and of which information was given the same day to the consuls and vice consuls of his majesty, they are expressly prohibited from delivering certificates of origin for merchandise of any kind or under any pretext whatever, if the vessels are not destined for France.

This reply to your second question, sir, furnishes you with a solution of the third. The consuls and vice consuls of his majesty will have ceased to deliver certificates of origin to vessels for any other place than France, immediately on the receipt of this circular, which will reach them a few days sooner or later, according to the greater or less distance of the places of their residence.

Concerning cotton and tobacco, their importation into France is, at this moment, specially prohibited; but I have reasons to believe (and I pray you, meanwhile, to observe, sir, that they do not rest upon any facts) that some modifications will be given to this absolute exclusion. These modifications will not depend upon the chance of events; but will be the result of other measures, firm and pursued with perseverance, which the two governments will continue to adopt to withdraw from the monopoly and from the vexations of the common enemy a commerce, loyal (*loyal*) and necessary to France as well as to the United States.

Accept, sir, the renewed assurance of my high consideration.

TURREAU.

The Secretary of State to General Turreau. Department of State, Dec. 13, 1810.

SIR,—I have had the honour of receiving your letter of the 12th instant, in reply to my inquiries in relation to certificates of origin, as well as to the admission into France of the products of the agriculture of the United States.

From your letter it appears, that the importation into France of cotton and tobacco, the produce of the United States, is, at this time, specially and absolutely prohibited.

From the decree of the 15th July, it moreover appears, that there can be no importation into France, but upon terms and conditions utterly inadmissible, and that, therefore, there can be no importation at all of the following articles, the produce of the United States, namely: fish oil, dye wood, salt fish, cod fish, hides and peltry.

As these enumerated articles constitute the great mass of the exports from the United States to France, the mind is naturally awakened to a survey of the actual condition of the commercial relations between the two countries, and to the consideration that no practical good, worthy of notice, has resulted to the United States from the revocation of the Berlin and Milan decrees, combined, as it unexpectedly has been, with a change in the commercial system of France, so momentous to the United States.

The act of Congress of May last had for its object, not merely the recognition of a speculative legitimate principle, but the enjoyment of a substantial benefit. The overture, therein presented, obviously embraced the idea of commercial advantage. It included the reasonable belief, that an abrogation of the Berlin and Milan decrees would leave the ports of France as free for the introduction of the *produce of the United States*, as they were previously to the promulgation of those decrees.

The restrictions of the Berlin and Milan decrees had the effect of restraining the American merchants from sending their vessels to France. The interdictions in the system that has been substituted, against the admission of American products, will have the effect of imposing upon them an equal restraint. If, then, for the revoked decrees, municipal laws, producing the same commercial effect,

have been substituted, the mode only, and not the measure, has undergone an alteration. And however true it may be, that the change is lawful in form, it is, nevertheless, as true, that it is essentially unfriendly, and that it does not at all comport with the ideas inspired by your letter of the 27th ult. in which you were pleased to declare the "distinctly pronounced intention of his imperial majesty of favouring the commercial relations between France and the United States in all the objects of traffick, which shall evidently proceed from their agriculture or manufactures."

If France, by her own acts, has blocked up her ports against the introduction of the products of the United States, what motive has this government, in a discussion with a third power, to insist on the privilege of going to France? Whence the inducement to urge the annulment of a blockade of France, when, if annulled, no American cargoes could obtain a market in any of her ports? In such a state of things, a blockade of the coast of France would be to the United States as unimportant, as would be a blockade of the coast of the Caspian sea.

The British edicts may be viewed as having a double relation; first, to the wrong done to the United States; second, to the wrong done to France. And it is in the latter relation only, that France has a right to speak. But what wrong, it may be asked, can France suffer from British orders which co-operate with her own regulations?

However sensible the United States may be to the violation of their neutral rights under those edicts, yet, if France herself has by her own acts rendered it a theoretical instead of a practical violation, it is for this government to decide on the degree in which sacrifices of any sort may be required by considerations which peculiarly and exclusively relate to the United States. Certain it is, that the inducements to such sacrifices are weakened, as far as France can weaken them, by having converted the right to be maintained, into a naked one, whilst the sacrifices to be made would be substantial and extensive.

A hope, however, is indulged, that your *instructions* from your government will soon enable you to give some satisfactory explanations of the measures to which reference has been made, and that their operation in virtue of modi-

fications, which have not yet transpired, will not be as has been herein represented.

The President has received with great satisfaction the information, that the consuls of France have been heretofore in the official and authorized practice of furnishing certificates of origin to American vessels, as well to those destined to neutral ports, as to those whose sovereigns are in alliance with France; and that this practice, sanctioned by the French government, did not cease in any part of the United States before the 13th of last month, and then only in consequence of a despatch from the duke of Cadore, bearing date the 30th of August preceding. This satisfaction arises from the hope, that similar information may have been given to the Danish government, and from a sense of the happy influence which such a communication will have had on the American property, that had been seized and detained by the privateers of Denmark, upon the supposition that these certificates of origin were spurious and not authorized by the French government. It is, nevertheless, to be regretted, that the functionaries of France in Denmark had not made known to the Danish authorities, during the occurrence of such outrages on the American trade, the error of denouncing, as illegitimate, authentick documents, which had been lawfully issued by the accredited agents of his imperial majesty.

I have the honour to be, &c.

R. SMITH.

General Turreau, &c. &c. &c.

Translation of a Letter from General Turreau, Minister Plenipotentiary of His Imperial and Royal Majesty the Emperor of the French, &c. &c. to Mr. Smith, Secretary of State. Washington, Dec. 25, 1810.

SIR,—I have received the letter you have done me the honour to write to me on the 18th of this month, and I hasten to transmit a copy of it to his excellency the duke de Cadore.

This despatch, sir, being an answer to the letters which I had the honour to write to you on the 27th of November and 12th of this month, naturally takes me back to their

object, to which I believe it is my duty again to call your attention.

I pray you to observe that the last instructions I have received from my court relative to the new directions the commerce of France with the United States must follow, are of a very old date : the official despatches from which I have taken them are of the 12th and 28th of April last.

It is the more probable that the regulations of my government in regard to this commerce have undergone some modifications, as the consul general received by the "Hornet," despatches of the 10th July, 22d and 30th August last, in which it is specially stated, that cottons may be imported into France in American vessels and under certain regulations ; whereas, according to the instructions which were addressed to me on the 12th and 28th of April preceding, cotton and tobacco are specially prohibited.

I will add to these data, (*ces données*) that, according to the orders transmitted to the consuls of his majesty respecting certificates of origin, and under the date before cited (30th August last) they may deliver them to all American vessels destined for France ; observing, that these certificates are not applicable *but to the products of the United States*. If these certificates of origin cannot be applied but to the productions of the United States, and cannot be given to any vessels but those destined for France, the introduction of these productions is not then prohibited there.

You will be pleased especially to observe, sir, that the dispositions which were announced to me by the despatches of the 12th and 28th of April, are of course anterior to the repeal of the decrees of Berlin and Milan, and are necessarily without an object the moment the said decrees are no longer in force. I do not know of any subsequent acts which modify this repeal, for the instructions already cited, sent to the consul general the 30th August last, relative to the certificates of origin, are only a consequence of it, and formally exclude only colonial productions.

Furthermore, sir, I have before me the letters of the duke of Cadore to general Armstrong, under date of the 5th of August, and 12th September, of which copies have been sent to me by order of my court. These are the only documents on which it seems to me reasonable to fix the

attention (s'arrêter) and I see in them nothing which can cause it to be supposed that the French government may have had an intention to modify or to restrict the repeal of the before cited decrees. This act contains no reserve : it does not exact any guaranty. The declaration of the duke of Cadore is formal ; and it is the provisions themselves of the act of the honourable Congress of the 1st of May last, which have dictated to him the consequence.

I seize this occasion with eagerness, sir, to renew to you the assurance of my high consideration.

TURREAU.

(C.)

General Armstrong to Mr. Smith. Washington, Dec. 27, 1810.

SIR,—The enclosed documents, marked 1 and 2, were intended to have made part of my last communication. The paper entitled *Avis au commerce*, &c. (notice to merchants.) contains a tariff of the new duties payable in France, and shows, besides, what are the articles of commerce admissible there. If this paper has no other value, it will be found important from the illustration it gives to that passage of the duke of Cadore's letter to me of the 12th of September last, in which he says that *American vessels loaded with merchandise, the growth of the American States, will be received without difficulty into the ports of France.* It is also in perfect concert with the practice of the French custom house, in the case of the ship *Ida*, coming from Boston with a cargo of cotton.

I am, sir, &c.

JOHN ARMSTRONG.

Hon. Robert Smith, Secretary of State.

Notice to Merchants on the Sale of the 1st. of August, 1810.

DESIGNATION.	TARES.	CUSTOM HOUSE DUTIES.
Oars,	- - -	2 francs the hundred.
Cotton of Brazil, Surinam, Cayenne, Demerara, and } Georgia, long staple,	6 per cent.	300 francs the 100 killogrammes.
Cotton of every other country except Naples,	6 per cent.	600 francs the 100 kil.
Logwood.	- - -	80 francs the 100 kil.
Cocoa,	3 per cent.	1000 francs the 100 kil.
Coffee in bags,	3 per cent. } 12 per cent. }	400 francs the 100 kil.
casks,	12 per cent.	400 f. the 100 kil. and 80 on the manf.
Cigars in boxes,	- - -	600 francs the 100 kil.
Cloves in bags,	2 per cent.	4 francs 8 centimes the 100 kil.
Gum Arabic in bags,	2 per cent.	25 francs the 100 kil.
Fish oil in casks,	15 per cent.	100 centimes the 100 kil.
Beans in lhd's.	12 per cent.	900 francs the 100 kil.
Indigo in seroons,	6 per cent. } 12 per cent. }	15 centimes per 100 francs.
cases and casks,	12 per cent.	400 francs the 100 kil.
Potash in casks,	12 per cent.	15 centimes per cent. <i>ad valorem</i> .
Black pepper in bags,	3 per cent.	200 francs the 100 kil.
Oak plank,	- - -	10 francs the 100 kil.
Feruvian bark in boxes,	12 per cent. }	80 centimes <i>le litre</i> .
in seroons,	2 per cent. }	12 francs the 100 kil.
Rice in barrels,	12 per cent.	12 francs the 100 kil.
Rum (<i>au litre</i>)	- - -	400 francs the 100 kil.
Rocou in casks,	12 per cent.	300 francs the 100 kil.
Clayed sugar in boxes and casks,	12 per cent.	400 f. the 100 k. & 80 fs. on manf.
Raw sugar in boxes and barrels,	15 per cent.	
Tobacco, in leaf, box or lhd.	12 per cent. }	
in <i>sacs</i> or <i>paniers</i> ,	2 per cent. }	

Note. The additional *teuth* is not comprised in the above duties.

CC The document, of which the above is a translation, is in print, and under the words "Custom house duties," ("Droits de Duane") are in manuscript the following words, viz. "by decree of the 5th August, 1810,"

HUS.C.
S7974

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Author

Title State papers and publick documents of the U.S.

Vol. 7

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